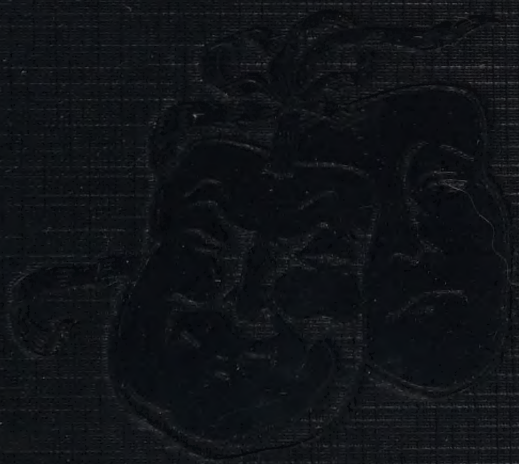
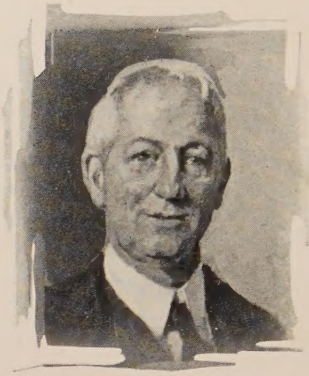


January 1977

With our best wishes –
Associated Actors and
Artistes of America

Frederick O'Neal
President

THE REVOLT OF THE ACTORS



The four men who have had most to do with the organization and leadership of the Revolt of the Actors. Above, they are: Frank Gillmore, a Councillor or Officer of the Actors' Equity Association since its inception, and now its President; and Francis Wilson, who bore its standard through the fight for recognition. Below are John Emerson, who led the actors on the long trail to Equity Shop; and Paul N. Turner, Equity Counsel from its earliest days.

THE REVOLT OF THE ACTORS

BY

ALFRED HARDING

1929

NEW YORK

WILLIAM MORROW & COMPANY

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BY ALFRED HARDING

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To

GRANT STEWART

(1866-1929)

A MEMBER OF THE PLAN AND SCOPE COMMITTEE
A COUNCILOR OF THE ACTORS' EQUITY ASSOCIATION (1913-1915)
RECORDING SECRETARY (1915-1929)
EDITOR OF THE EQUITY MAGAZINE (1921-1929)
WHO WAS RESPONSIBLE FOR MUCH OF THE MATERIAL
IN THIS BOOK
"THE REVOLT OF THE ACTORS"
IS DEDICATED

FOREWORD

In the sixteen years of its existence the Actors' Equity Association has attained a position unique alike in the history of organized labor and the theatre. It is a labor union which does not attempt to dictate as to the wages or the hours of labor of its members and yet is regarded with pride and affection by its fellows in the labor movement. It is a militant organization which protects its members to the limit of the contracts they sign, but is so insistent upon the observance of those contracts by its members that it is accorded the respect and even the gratitude of the greater number of the producing managers with whom it works. It is an Association which has so demonstrated its real interest in the welfare of the theatre as a whole that it enjoys the confidence of the general public. To trace the rise to power of such an organization has been a genuine pleasure.

But the assembling of the material upon which this story is based, and its proper coördination has involved the services of others without whose assistance this task would have been practically impossible. In particular I wish to make acknowledgment to:

Miss Jean McCullough, for thorough and painstaking research into the early days of the Association;

Mr. Grant Stewart, for close reading of and authoritative comment upon the manuscript as it developed;

Mr. Frank Gillmore, for much of the information which was not available in the printed record;

Mr. Paul N. Turner, for consideration of the legal problems involved;

Miss Catherine Darcy, of the Equity Filing Department; and

All those members of the Association who contributed photographs, information and comment on particular events of which they were personally cognizant.

Alfred Harding.

Hastings-on-Hudson, N. Y.,
August 15, 1929.

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Part I

THE FIGHT FOR RECOGNITION

Chapter I

STRANDED THREE THOUSAND MILES FROM HOME

In the orchestra someone loosed a terrified gasp. From the balcony rang out a warning cry. But even descending as swiftly as it did the curtain could not hide the fact that Kitty Gordon had collapsed in a heap on the stage.

Something had been terribly wrong with this performance of "The Enchantress" from the beginning, and whatever it was had gone steadily from bad to worse. Now the curtain was down and the house manager of the Majestic Theatre was explaining that owing to the illness of the star the performance would have to be abandoned, and that tickets issued this night would be honored the next.

The performance, however, was never resumed and the sixty-seven principals and chorus members of the production were stranded, abandoned to their own resources, three thousand miles from Broadway and the next prospective job.

"The Enchantress" with a book by Fred de Gressac, lyrics by Harry B. Smith and score by Victor Herbert had been organized in New York early in the season of 1913. In the cast beside Kitty Gordon were Walter Catlett, Ernest Torrence, Robert Milliken, Arthur Forrest, Mary Ambrose, Dolores Suarez, Edith Abbott and others well known in musical comedy circles.

It enjoyed a moderate success in New York and took to the road. While its receipts there had tended to be erratic the members of the company had continued to receive their salaries until the first week in October, at which time the play opened for a two-week run in San Francisco.

The critics liked Miss Gordon and her "Fifty Thousand Dollar Back." They didn't like the book or the music and didn't think much of the company, either. Receipts, which had started off well, slumped badly and at the end of the first week the company felt that cold chill which comes with the announcement that salaries will not be met.

At this point Miss Gordon wanted to withdraw and close the run of the play, but in a later statement declared that she had continued the tour to help the chorus.*

The company limped through the remainder of the San Francisco engagement and managed to make the jump to Los Angeles, though once again salaries were not paid the principals. They thought that Miss Gordon was getting hers just the same, and feeling in the company ran high.

In Los Angeles things began to go better. The Shriners had taken an interest in "The Enchantress" and visions of salary and perhaps even back pay began to appear before the eyes of the cast.

But this Friday evening, just before curtain time, attorneys for Mrs. Fred de Gressac, widow of the author of the book, attached the box office receipts for unpaid royalties.

Miss Gordon and the company manager declared that royalties had been sent regularly to the office of the producer, in New York, and news of the attachment, coming as it did on top of the feeling in the company against her, and the further knowledge that the management owed her $6,000, was responsible for Miss Gordon's collapse.

With her collapse went the play. The balance of the engagement was cancelled, despite the interest of the Shriners in the production, and the members of the cast gathered at the Majestic stage door to canvass their situation. The worry was strictly their own: the management had repudiated them.

"The actors and actresses to-night find it necessary to look otherwise than to the management for railroad tickets back to Broadway," was the word they received.*

As far as the records available indicate, that cast never got back to Broadway, and its members, for all the assistance they received, may still be gathered, aged and graying, about the stage door of the Majestic Theatre in Los Angeles.

To this unhappy pass the actors and actresses of this country had come in the twenty years preceding this stranding, after occupying for more than two centuries an important and honored position in the American theatre.

* Billboard, November 8, 1913.

AS IT WAS IN THE BEGINNING

For nearly two hundred years from the introduction of the professional theatre into the British Colonies the structure of the theatre was simple and the actor's place in it well defined by custom and precedent.

During that period most of the managers were actors who had risen from the ranks through ambition and executive ability. But, to a large extent, they continued to share the fortunes of their companies, good or bad, and any adjustments with its members were on the basis of the close personal relationship which existed between them.

There were differences of opinion, of course, and abuses cropped out from time to time, but they were apt to be casual, sporadic, almost accidental—such abuses as are inevitable when one man is in the position of an employer and others are in the position of employes.

In the wake of the Civil War the United States underwent a tremendous boom. The development of transportation opened up great stretches of country west of the Mississippi and the business of the nation went ahead by leaps and bounds.

The business of the theatre went along with that of the country and its own development was as rapid and unwieldy as that of the nation.

The informal system, or lack of it, by which plays, players and audiences were brought together no longer sufficed now. The business of organizing and routing attractions brought about the gathering of theatres into chains and circuits and then the birth of booking offices to supply their wants.

From the welter and confusion of these experimental affairs there evolved on August 31, 1896, a super-booking office known as The Theatrical Syndicate, which, through an intricate system of productions, bookings and financing, became practically the absolute master of the dramatic and musical comedy theatre of the country for some years.

The Syndicate could and did say what productions would appear in any given theatre at any time, and on what terms. And possessing that power it often could and did say what actors would appear in any cast and on what terms they should play.

The functions of playing and management, hitherto pretty generally intertwined, became separate and the men who came forward as managers under the new régime were primarily business men, unacquainted with and without much sympathy for the traditions of the stage and the privileges enjoyed by the actor under them.

The efficiency campaign which was instituted under the hierarchy of the Syndicate eliminated some wasteful competition, straightened out some booking tangles, and in general placed the business side of the theatre on a better basis.

But the considerable advantages which accrued to the theatre from these changes were all in favor of the manager; and the actor, so long considered the very backbone of the theatre was given least consideration of all the factors concerned in the production of a play.

The theatre has always been something of a gamble, and those who work in it prone to be gamblers. Probably there will always be an element of chance-taking in its operation. But from the time the Syndicate established its dominance the managers began to make the gamble one with loaded dice—and the dice were theirs.

Concessions made by actors under other conditions were now taken as a matter of course in all contracts and there evolved a body of new theatrical customs which were entirely in favor of the management.

WHAT THE ACTORS HAD TO STAND

Probably there was no one contract in which all abuses prevalent at the turn of the century were met. But there were a certain number which were pretty general, and what was missing in one contract was likely to be encountered in the next. The only regulator was the individual conscience of the manager. There were enough of them encountered by every individual actor in the theatre on his way up to stardom—and even after, as in the case of "The Enchantress"—to engender widespread discontent in their hearts.

There would be little use in digging up every instance of managerial injustice and oppression, but it is fair to assume that the

following practices were so widely prevalent as to be almost universal; and that individually and collectively they were heartily hated by the actors.

The most serious was the absence of any standard contract. No actor could tell in advance what he would be required to do, for each manager wrote his own and somewhere, in practically every form of contract, there was a legal loophole through which the manager could evade anything to which he had, apparently, bound himself.

And if disputes arose the actor could either accept the manager's ruling or go to law. A lot of good that was likely to do him, for a suit brought for a stranding in Los Angeles might find the actor at work in Chicago, New York or New Orleans when it was called for trial.

Even if the actor won and got a judgment, there was the growing tendency of producers and backers of plays to incorporate to avoid individual responsibility. The incorporators, under the laws of New York State at any rate, were liable only for the amount of the incorporation. This might be small and quickly eaten up by officers' salaries, loans made by insiders and production expenses. But as soon as the amount for which the play was incorporated was exhausted the legal responsibility of the incorporators, however wealthy, ceased, and actors and others could not recover sums due them. Stage hands, musicians, and others who were organized at this time and able to enforce their requirements, were given the preference. Usually the actor was the last man to be reached in the long line of waiting creditors.

There was no limit to the free rehearsal period. Six, eight, ten weeks of rehearsals for a dramatic production were not extraordinary; while for musical productions rehearsals might run into sixteen or eighteen weeks. John Goldsworthy under a two-year contract with the Shuberts rehearsed fifty-seven weeks and played twenty-two. In another somewhat similar case the actor in one season rehearsed twenty-two weeks and played four nights. He appeared in three productions, one of which ran two nights and the other two one night each. Payment was, of course, at that time, only for the time actually played.

Even after opening the tenure of employment was slight and subject to the manager's slightest whim. Companies and indi-

viduals might be laid off, their salaries cut, or the play might be closed without notice and if salaries were paid at all they were paid only to the date of closing. The two weeks' notice of closing, from time immemorial the custom of the theatre, was generally abandoned. One week became quite general and there was nothing to prevent practically spontaneous firing.

Pay was highly irregular and uncertain in its arrival. There were certain weeks in the year, notably the week before Christmas, Holy Week, Election Week, and in some instances the first two and last two weeks of the season, when half salaries were paid regardless of the business, which might be excellent. One manager took advantage of the custom with regard to Election Week by docking two of his companies, one of which was playing in Toronto, Canada, and the other in Washington, D. C., in neither of which cities was an election in progress. Why not? Weren't other managers doing the same thing? And it was quite general for pay day to be Tuesday or Wednesday of the following week, or any day the manager happened to get around to it—if he did.

Strandings became unfairly fairly frequent and the picture of an actor or a company walking the ties back to other jobs had, unfortunately, more poignancy than humor to those who underwent the experience.

The actor was frequently required to pay his own transportation from the point of organization to the point of opening and from the point of closing home. So if the company opened in Baltimore and closed in Minneapolis the actors would have to pay their fares from New York to Baltimore and from Minneapolis back to New York. Even in those companies in which this clause was not invoked the actors knew it was in the contract and the knowledge was a club whose existence they could not afford to ignore.

Practically all of the actors and actresses were required to furnish their own costumes for modern plays and frequently for period plays as well. This was particularly hard on the actress, for if the play was an elaborate one which failed to go over she would find herself equipped with an expensive outfit suitable for no other production, and with less money coming to her in salary than she had spent for costumes.

Conditions backstage were generally pretty bad. Even in new,

attractive theatres the actors' dressing rooms were apt to be in the cellar or up several flights of stairs. Very few theatres had dressing rooms which were properly heated and lighted, or provided with running water and adequate closet space. Complaints were not likely to produce much effect, although it was not always that the actors found, as they did on one occasion, that the theatre manager and the Public Health Officer were one and the same person—and this was one of the worst theatres on the road.

And where managers held the power of artistic life and death over their employes it is not to be wondered at if certain individual managers took advantage of that power to exact their pound of flesh—especially if that pound of flesh was lovely. It was not a general condition, certainly, but it was known that particular managers were susceptible and that actresses who were susceptible, also, had the best chances of advancement with them.

And finally there was the growing popularity, (with the managers), of the "Satisfaction Clause." Under this clause the actor undertook to play his part in a manner satisfactory to the manager. The latter was the sole judge in this matter and from his decision there was no appeal. Regardless of other clauses in the contract, when a manager decided that an actor's work was no longer satisfactory, out he went and that was the end of the matter.

As it was actually employed to the detriment of one actor there is the classic case of Jack Hazzard *vs.* the Shubert Theatrical Company which definitely established how far the manager could go under this clause.

In August, 1911, the Shuberts engaged Hazzard to appear in their musical productions during the next season, guaranteeing him a season of at least thirty weeks. Hazzard had appeared in three different productions and had played twenty-five weeks when the Shuberts ended their season next May. He was informed that his work was unsatisfactory and that the management intended to close him under this clause. No cause for dissatisfaction was shown and Hazzard was really a very competent player and had received excellent notices, but he was discharged and when he came to the Shubert offices asking for either five weeks'

pay or five weeks' work he didn't get either. So Hazzard took the claim to Court.

Three years later the case came to trial and the complaint was dismissed on a point of law by Judge Whitaker. He refused to let the case go to the jury for a decision as to the facts.

Another three and a half years and the case arrived before the Court of Appeals of New York State which, without a written opinion, handed down a decision upholding the contention of the Shuberts with regard to the Satisfaction Clause.* The Court had said, in effect, that where this clause existed in a contract good faith in determining whether or not the actor was satisfactory was not required. Well, there it was, unfair but legal.

THE FIRST REBELLION AGAINST THE MANAGERS

The actors did not exactly take these impositions and indignities lying down, but they might as well have. Before the appearance of the Theatrical Syndicate, but while it was in the air, there was formed the Actors' Society of America, both a social and business organization.

The Constitution of the Actors' Society, adopted May 19, 1896, asserted:

"It shall be the duty of this Society to discriminate between responsible and irresponsible managers and to assist its members in securing contracts with responsible managers only."

But before the Society had gotten really under way the Syndicate had gathered so much strength that it was able to dictate the casts of most of the productions made in this country; and was quite able to—and consistently did—ignore the Actors' Society and its regulations and wishes.

The first real resistance to the organized power of the managers through the Syndicate came from a group of actor-managers. And their rebellion was not against the abuses which were even then beginning to be visited upon the less important actors, but was a demand to be allowed to keep their bookings in their own hands, and not surrender themselves to the booking department of the Syndicate.

In this group were Joseph Jefferson, Richard Mansfield, Fanny

**New York Review,* December 14, 1918.

Davenport, Nat Goodwin, James O'Neill, Minnie Maddern Fiske, David Belasco and Francis Wilson.*

During the next season, or so, beginning with 1896, this valiant band, or its component parts, campaigned away against the Syndicate playing in all sorts of out of the way theatres. Some the Syndicate went after with promises of increase in percentages, and some it fought or ignored; until, at the end of two or three seasons there were only two rebels of any consequence, Francis Wilson and Mrs. Fiske.†

It is interesting that during this struggle there was, apparently, no thought of coöperation between these independent actor-managers and the Actors' Society. Both had a common object, the relaxation of objectionable restrictions upon their freedom, and together they might have obtained some measure of victory. The Syndicate was new hatched then, and not so certain as to how far it might go.

But one by one the independent managers went down to defeat, or surrendered to the Syndicate; and the Actors' Society watched them go and didn't lift a hand. This was probably due to the fact that everyone considered these rebels primarily as managers, and as fighting for managerial rights, rather than as actors seeking to redress the wrongs of all actors. However it was, the actors went down to defeat in this first trial of strength.

Another opportunity to make an effective protest was lost when the Shuberts came along to break the grip of the Syndicate in a series of furious battles which extended through the first decade of the new century. For the Shuberts were so in need of every available source of assistance that they would have been willing to grant concessions of almost any caliber which would have assured them the solid support of the actors; and the Syndicate was so beset that it could not have refused similar terms.

But the Actors' Society did not lift a voice during this struggle which shook the American theatre to its roots, and in the success of the Shuberts there was only disillusionment for the actor. During the heat of their fight against the Syndicate the Shuberts had proclaimed themselves the champions of the weak and op-

* Francis Wilson's Life of Himself, Houghton Mifflin Co., New York and Boston, 1924, page 151.

† *Ibid.*, page 156.

pressed in the theatre but now there were, to all intents and purposes, two Syndicates—and in the treatment of actors there was little to choose between them, although it must be said for the Shuberts that the competition caused by their rise did help to keep actors' salaries from dropping into the cellar.

The officers of the Actors' Society made several attempts to negotiate a charter from the American Federation of Labor but could never reach an agreement as to the terms. Finally the Society gave over the attempt.

Meanwhile its membership and influence dwindled steadily. So desperate did its outlook become that on December 22, 1912, one hundred representative members met at 133 West Forty-fifth Street, New York City, to decide whether or not it was worth while to try to continue its existence as a society.

The consensus of opinion at that meeting was that it was not—that the Actors' Society of America had outlived its usefulness.

But there were men in that group who were not satisfied that the field should be abandoned because of the reverses which had been suffered; who felt that the fight was worth carrying on; that profiting by the mistakes of the elder body an organization concerned only with the economic grievances of the actor could win through successfully where the Actors' Society had failed.

The same meeting which heard the death sentence pronounced upon the Actors' Society of America witnessed the birth of a new organization which was to become the Actors' Equity Association.

SETTING THE STAGE FOR EQUITY

The last action of this meeting was to authorize its Chairman, Howard Kyle, to appoint a committee to formulate, if it seemed practical, the plan for an actors' organization, along the lines just laid down. The original members of that committee were: Albert Bruning, Charles D. Coburn, Frank Gillmore, William Harcourt, Milton Sills and Grant Stewart.[1]

About all the precedent this committee had to go to work on was the not very helpful knowledge that every previous actors' association had been wrecked by factional fights or by the hostility of the managers. It knew, also, that twenty years of bludgeoning had pretty well knocked the morale of the prospective membership

into a cocked hat. Not much support could be expected from the rank and file: this would have to be, at first anyway, an organization from the top down.

To convince actors, managers and public, alike, of the standing of the proposed Association the committee felt that it ought to put forward a leader whose name would carry conviction. It had better be, the committee was also agreed, someone who had some experience at rough and tumble fighting with the managers, who would know what this business was all about, and what to do with such power as the organization might hope to achieve.

A canvass of the situation brought about the choice of Francis Wilson for leader if, as, and when the Association might be formed. Wilson was a veteran of the earlier battle of the stars with the Syndicate, and though he had lost his fight he had succeeded in dictating the terms of his surrender. And the committee had reason to suspect that in all those two decades the fact of that surrender had never ceased to rankle and the hope of eventual resumption of the fight on more equal terms had always flickered in his heart.

Wilson, when approached by Harcourt on behalf of the committee, had no illusions as to the difficulties which lay ahead of this project, or of the griefs which he was inviting for himself and those who would be associated with him in the movement. Nevertheless he could still say:

"I have seen so many of these attempts start and fail—but I am an optimist and I am always willing to try once more."

And then the committee went to work to build up a membership list, combing its combined memories for men who might be interested and who could be depended upon to stick. Five months of letter writing, interviewing and proselytizing followed, with, in between times, work on a Constitution and interviewing managers with regard to a standard contract. Hard work, not always pleasant work laying the foundations on which the edifice of the Actors' Equity Association was reared.*

By the middle of May the committee believed it had accom-

* The suggestion as to the name of the proposed association which was taking shape was made by William Courtleigh at a meeting of the Plan and Scope Committee on February 14, 1913. Augustus Thomas had earlier suggested "The Actors' Contract Association," and several other names had been considered before Courtleigh's name was presented.

plished enough to call a general meeting to launch the Association. A subcommittee headed by Bruce McRae, and containing also Howard Kyle, William Sampson, William Courtleigh and Cyril Scott was selected to draw up a slate of Officers and Councillors, and while this committee was at work another shopped around and after some bargaining settled on Elks Hall in the Pabst Grand Circle Hotel, on Fifty-ninth Street, perhaps because the hall, with one hundred and fifty chairs thrown in, could be secured for $15. Now, at last, the call could be sent out for the organization meeting of the Actors' Equity Association at 2:30 P.M., May 26, 1913.

The rising star of Equity rested just on the horizon.

Chapter II

Enter the Actors' Equity Association

One hundred and twelve persons were present when Harry Harwood called to order the organization meeting. In short order the Constitution and By-Laws were read and adopted, the slate of Officers and Councillors prepared by the Nominating Committee elected, and the Actors' Equity Association was a reality.

The Officers who were then given the reins of the Association for one year were: President, Francis Wilson; Vice-President, Henry Miller; Corresponding Secretary, Bruce McRae; Recording Secretary, Howard Kyle, and Treasurer, Richard A. Purdy.

On the original Council, elected for three-year terms, were: Edwin Arden, George Arliss, Digby Bell, Holbrook Blinn, Albert Bruning, Arthur Byron, Charles D. Coburn, Edward Connelly, John Cope, William Courtleigh, Jefferson De Angelis, Robert Edeson, Edward Ellis, Frank Gillmore, Wilton Lackaye, George Nash, Frank Reicher, William Sampson, Grant Stewart, John Westley, and Thomas A. Wise.[1]

The daily press and, indeed, the theatrical world in general, was not much impressed with the advent of the Actors' Equity Association. There was very little comment on the formation of the Association, and that little ironical and skeptical. It was not until July twelfth that the *New York Review,* organ of the Shubert theatrical interests, got around to commenting upon its existence, and then it was editorially in these words:

"The most recent attempt of actors to unionize themselves by the formation of the Actors' League is likely to go the way of other similar ventures.

"An actors' union or any sort of coöperative protective organization having actors exclusively for members, is doomed to failure because the foundation upon which any such sort of League must stand to be successful is absolute equality.

"It is quite absurd to suppose that any actor would admit that

any other actor is his equal. In no other profession or art do egotism and jealousy show themselves more luridly.

"Every actor considers himself the nonpareil in his own line and wants a larger salary than any other competitor. Therefore to regulate pay and form of contract would be an impossibility, because on these questions no set of actors will stand together.

"The minute one of them found a backer and had a chance to go starring the adopted form of contract would be consigned to limbo.

"Where there is jealousy, envy, vanity, and the refusal to admit that one's fellow is one's equal there can be no union or joint action.

"It would be interesting to see how long Mr. Francis Wilson or Mr. Wilton Lackaye, or others who have lent their names to this Utopian scheme would abide strictly by its provisions when it is to their interests to do otherwise."

The voice was that of the Shuberts, but the thought was common to all managers and, it may be added, to many actors and actresses. It was this question above all others that Equity had to face, spoken or unspoken.

EQUITY'S FIRST ARBITRATION

If there is one distinctive contribution which Equity has made to the legitimate theater it is the principle of arbitration for the settlement of disputed points in the contract itself, if not the principles of the Basic Agreement behind it. In previous practice the managers had definitely preferred and relied upon the law whose costly and cumbersome processes were all in their favor.

Union labor, on the other hand, where it had achieved sufficient power, rather preferred to formulate its demands and then debate them, prepared if necessary to fight it out, for as long as might be necessary, when it had reached rock bottom terms.

But Equity from its earliest days has been willing on nearly all occasions to submit its cases to impartial judges or boards of arbitration which, neglecting the complicated rules of court procedure, strive to ascertain just what has happened and then, on the basis of the specific language of the contracts, or in view of theatrical custom hand down decisions binding on both parties through prior agreement.

It is, certainly, a rule of conduct to which it is possible to

adhere only when one enters court with reasonably clean hands, and Equity has been by no means willing to demand arbitration of all the claims presented to it by its members; but an organization which is scrupulous in the choice of its cases has decided advantages under this system, providing only there is sufficient force available to make the arbitration awards binding.

There is, in this matter of arbitration, a great advantage in the celerity of obtaining an award. The dockets of the courts in New York State are sometimes two years or more behind: that is, a suit brought at this time may have to wait that long to be heard. An arbitration, on the other hand, can usually be arranged within ten days of the filing of the demand.

In the conduct of the hearing, itself, the arbitrators under the laws of New York State, at any rate, are much freer to ascertain the facts, are less bound in questioning witnesses, and a decision, once handed down, is as binding as that of a Supreme Court Justice in the State Courts.

Now all this matter of speedy conclusion, this freedom from the rules of testimony, the informality with which it works, is usually in the actor's favor; but so it might be in the case of the other theatrical unions, if they were willing to allow outsiders to have a voice in the conduct of their affairs. This has never seemed desirable to them, or, indeed, until after Equity had demonstrated its practicability, to any groups of organized employes. At any rate it is Equity which has shown the way to arbitration of contractual disputes, and this is the manner in which it came about.

Membership in the early days of the Association had been restricted to men. The Plan and Scope Committee had felt that the managers would probably be hostile to this attempt to organize their actors and might take out their hostility on those who made themselves conspicuous in the attempt. Particularly they believed this might be expected if the attempt at organization failed to come off. So the committee wanted Equity to be a going organization before admitting actresses to membership.

But everything went so well, and the membership campaign received such an impetus so early, that in mid-July the membership requirements were modified to read: "Any person, irrespective of

nationality, who can establish a record of three years as an actor is eligible to membership in the Association." [2]

Under that ruling Mrs. Thomas Whiffen was the first actress to be elected to membership in the Actors' Equity Association.

It was one of Equity's new women members who was responsible for its first arbitration. And in stately and dignified language the Council Minutes recorded the circumstances which accompanied it:

"On or about the 9th of September, 1913, the Recording Secretary met Mrs. Grace Thorne Coulter, on her way to the office of the Actors' Equity Association, as instructed, she said, by her husband and our fellow member, Mr. Frazer Coulter, who was on tour.

"Mrs. Coulter stated that she had been sent for in haste by Mr. Al. H. Woods, a New York Manager, and asked to witness a performance of one of his great successes with an eye to a certain part. She was rehearsed and approved and asked to get ready to open on Labor Day. She did so and went to the theatre fully prepared for the matineé of that date. There she was informed that she would not be required until the Monday after—but two days before *that* time she was again told, over the telephone, that her services would not be needed.

"She had spent about $200 for dresses for the engagement and she asked to be at least reimbursed for that outlay. But she could not get even an acknowledgment from the Manager to her 'phone calls or letters.

"The Recording Secretary called Mr. Nathan Burkan at his law office, and stated these facts—and that gentleman said he would attend to the matter. (Mr. Burkan, being both an Associate Attorney of the Actors' Equity Association and counsel for Mr. Woods, was in an excellent position to do any attending he might desire.) Two days later Mr. Burkan reported that if Mrs. Coulter would send the dresses and the vouchers to the manager's office a check for the full amount would be forthcoming. He added that the episode demonstrated the value of the Equity Association and asked that Mrs. Coulter would please accept the settlement in its name with the attorney's compliments. Mrs. Coulter has shown herself deeply gratified by the service done her." *

* Equity Council Minutes, September 22, 1913.

Photograph by International Newsreel.

Ethel Barrymore addressing a meeting during the strike.

Photograph by International Newsreel.

When Mayor Hylan refused an interview to the Chorus, Ethel Sadler addressed the crowd from the pedestal of Nathan Hale's statue under his windows.

Mrs. Thomas Whiffen, the first actress to be elected to membership in the Actors' Equity Association.

EQUITY ARRIVES WITH ITS HAT IN ITS HAND

But Equity's chief preoccupation through all this was the securing of an equitable standard contract. Ever since the early days of the Plan and Scope Committee a contract committee had been studying the forms in use by managers who were generally conceded to be fair, debating the wording of clauses, learning by checking back to actual cases how actors' rights had been affected by court decisions; and, in conjunction with Paul N. Turner, Counsel of the Association, rewriting and circulating the revised clauses for comment from other actors, managers—all those who were contract wise.

It was late fall before the contract which evolved from these interviews, negotiations, suggestions and conferences was ready to be presented to a general meeting of the membership. But its reception there was so enthusiastic that the Council determined to present it as a basis for negotiations immediately.

At that time the producing managers of New York City were loosely organized in two Associations, the National Association of Theatrical Producing Managers, whose membership was largely producing managers, and the United Managers' Protective Association, in which were also theatre owners, and bookers. It was to the former that Equity presented its first request for a conference on the question of a standard contract, November 24, 1913.[3]

With some reluctance (the Secretary of the managers' association professed to see an ultimatum in the signature of the Equity Council to the request, for which reason that letter was withdrawn and another signed only by the President and Secretary substituted), this request was granted and the contract committees of the two Associations had their first meeting, in the office of the managers, in the Times Building, on the afternoon of January 9, 1914.

At that time Equity suggested six different forms of contract—Two Weeks' Notice, Season and Run of the Play, a separate form of each for men and women. In all those forms, however, these seven points had been emphasized:

1. Free transportation from New York to New York.
2. A limit on free rehearsal time.

3. The reëstablishment of the two weeks' notice clause.
4. Protection from dismissal without pay for the actor who had rehearsed more than one week.
5. Prevention of any increase in the number of extra performances without pay.
6. Full pay for all weeks played, and
7. Adjustment of the situation with regard to women's costumes.

The managers' committee was courteous enough, but not particularly impressed. They seemed to feel that the contracts then being issued by most of the reputable managers gave the actors all the protection for which they were asking. As for reaching any immediate agreement:

"There will probably be many meetings of the committees before anything definite is decided." *

In no paragraph which ever appeared in its columns was the *Review* more prophetic than this.

AND LEARNS THAT "FINE WORDS BUTTER NO PARSNIPS"

But getting the managers to appoint a committee to listen to a request for a standard contract was one thing, while getting that committee to recommend its acceptance, much less persuading their Association to act upon any such suggestion, was plainly a horse of another color.

The contract committees met several times and no one could say that the managers' representatives were anything but cordial and courteous but—no one could say they were anything more.

Plainly then, until Equity was able to demonstrate more compelling reasons than it had been able to advance so far, it could look for little more than it had received.

When six months had passed and things were still very much in status quo, the Council decided to drop the National Association of Theatrical Producing Managers and turn its attention to the United Managers' Protective Association.

Wilson placed Equity's desires before Marc Klaw, President of the U.M.P.A., late in July and found him quite receptive. He reported Klaw as saying that his firm, Klaw and Erlanger, heartily approved of Equity and that its members were also in accord

* *New York Review*, January 10, 1914.

with the proposed contract on all points save the half-salary weeks at Christmas and Easter. "Even that, however," Wilson quoted Klaw as saying, "can be adjusted if it is shown to be right that it ought to be adjusted." *

Those were certainly encouraging words, for the firm of Klaw and Erlanger was an important and influential one and if its members believed in Equity, approved its contract and were prepared to recommend its adoption, the prospects of its acceptance by the managers' associations were bright indeed. Equity's strength was growing from day to day through the energetic recruiting campaign put on by its officers; the managers were fair and friendly; surely the difficulties were not so great, nor their consummation to be so long in coming.

Still the summer dragged its length upon Broadway and there was no word from either managers' Association. And when the Equity committee went back and back at the managers, and pressed for immediate action, it was to learn that the managers, though friendly in principle, were crowded with work.

That friendliness, however, did not extend to the point of accepting a standard contract, any standard contract. For continued pressure from Equity was met with the advice from Ligon Johnson, Counsel of the U.M.P.A., that the Committee should recommend to the Council, "To give up the idea of getting a uniform piece of paper, (the contract), and prepare a letter including all those things which we feel to be necessary to an equitable arrangement, sending same to them for action." †

There was consternation in the Council when this was reported. Give up the idea of a standard minimum contract, perhaps the most basic of the ideas upon which the Association was founded? And yet suppose they stood fast, might not the managers decline any concessions, at all? Might it not be better to take what they could get now and try for more later, when they were stronger?

After a considerable amount of proing and an almost equal amount of coning the Council decided to stand fast, at least for the time being, and to write to the managers explaining the seven points for which Equity was battling, asking how the clauses covering them could be bettered.

* Francis Wilson's Report to the Council, July 27, 1914.
† Equity Council Minutes, October 26, 1914.

There was nothing unreasonable in Equity's contract, Klaw informed Wilson some ten weeks later, still he felt that the present was a bad time to do anything about it—in fact he doubted his ability to get the managers together for that purpose at this time.*

"A CONTRACT FOR SWEET CHARITY'S SAKE!"

While Equity was revolving in its mind new arguments which might have more weight with the managers than those so far presented the Council received a letter from the Actors' Fund of America asking for contributions.

And the Council seized upon it as an argument for the granting of a standard minimum contract of employment!

In a letter, copies of which were sent to Marc Klaw, who was at once President of the U.M.P.A. and Chairman of the Finance Committee of the Fund; Daniel Frohman, the Fund's President; and the newspapers, Equity set forth its sincere interest in the welfare of the Fund, and its appreciation of the part certain of the managers were playing in its administration.

Would the United Managers' Protective Association, ran the Council's letter, consider setting up a dramatic employment agency? If it would Equity would engage that its members would seek employment only through that agency. The commissions from that source, (and Equity estimated they might reach $100,000 a year), would go to the Fund and the situation would be saved—no more begging letters or annual benefits. And if the managers didn't care to establish such an agency, why, Equity would do it for them. And all that Equity asked in return was just a standard contract.†

The newspapers received this suggestion with considerable interest, rather more interest than either the managers or the Fund. It was a month, at least, before Klaw replied: "That managers would object to other managers knowing what they were paying certain actors, and that some actors would object to other actors knowing what salaries they received." ‡

While the Council was not much impressed with the relevancy of this argument it was quickly apparent that the proposal was just persona non grata all around for the Fund wrote Equity

* Equity Council Minutes, January 4, 1915.
† *Ibid.*, January 14, 1915.
‡ *Ibid.*, February 15, 1915.

saying that: "It was neither feasible nor advisable to consider the proposition at this time." *

EQUITY BEGINS TO LOOK ABOUT FOR A CLUB

Equity was in a very unhappy frame of mind these days and was quite in the mood to show its resentment at the managers' behavior when the opportunity presented itself. It came from the attempt of a young singer to obtain redress from the Shuberts.

In June, 1913, Kathleen Clifford contracted with the Shuberts to appear in four Sunday night concerts at the Winter Garden. But after the first of her scheduled performances she was offered just half the sum named in her contract. When she refused it and stood out for her whole salary, she was told it was a case of half a loaf or no bread.

So Miss Clifford went to court to obtain her salary. And there the Shuberts set up one of the most curious defenses ever presented anywhere. For representatives of that office testified that because of the laws forbidding Sunday performances her services had been illegal and that, therefore, she had no claim to anything. And, more curious still, the Court sustained this view and threw the case out.

Very well, decided Miss Clifford and her advisers, if they were illegal they were illegal. But somebody was making a lot of money out of them, and if they were illegal for Miss Clifford they ought to be illegal for these persons, too.

When these contentions were presented to the Court the latter decided that this was really a police matter; and when it was called to the attention of the Inspector of the District he said that he saw nothing illegal in these "Sacred Concerts—All Star Acts." So now Equity was asked what it was going to do about it, and Equity was quite minded to make trouble if it lay in its power. The Council took the matter up with the Police Commissioner, Arthur Woods, and received a polite acknowledgment, but the Sunday night concerts continued just the same. So Equity wrote another letter, this time to the Corporation Counsel, calling attention, etc., and asking what about it. And, of course, the Sunday performances continued, meanwhile.

But just about the time Equity was beginning to believe that it

* Equity Council Minutes, March 8, 1915.

had come to the end of another blind alley, the Council was agreeably surprised to hear from the Corporation Counsel, on June 19, that the case had been settled out of court. It was an indefinite, not to say vague statement and it was not until one of the newspapers, *The Morning Telegraph,* nosed into it that it was discovered that the Winter Garden had paid a fine of $500 less costs.[4]

The real sting, however, lay in the fact that one week later the Sunday night show was suddenly and without explanation abandoned by the Shuberts, at least for the time being. That decision was a painful one, without doubt, for the Winter Garden had been doing capacity business at these Concerts.[5]

And in its rôle of picador Equity managed to plant another dart in the managerial hide in that exceedingly tender spot—the bank account.

Early in the previous winter Liebler and Company, a large producing firm had failed with almost no assets. Naturally, the actors had not been paid. Ordinarily they would have kissed their money good-by, but Turner, on behalf of the Council, felt that it could be shown that actors were wage earners in the eyes of the law, as indeed they were in the eyes of their families and those who did business with them.

The Court to which application was made referred the case to a referee, Stanley W. Dexter, who, on June 8, handed down an affirmation of the contention that actors did occupy the position of wage earners under the industrial laws of New York, and were to be considered preferred creditors of Liebler and Company.[6] There was not much in the latter's treasury, about $6,000 or so, but it would help somewhat and Equity had established a precedent of a rather unusual sort—in favor of the actor, this time. And a little later a decision was obtained and invoked which permitted arrest of a manager in arrears to chorus people, who refused to pay.

This was all very annoying to the managers, of course, and in a way it was rather fun, too, but it was absolutely no good when it came to getting a standard contract or convincing the managers of the fundamental justice of Equity's case. What was necessary was the formulation of some sort of general policy which would make it expedient for the managers to give Equity what it asked because it would not be safe to refuse it.

THE GENESIS OF EQUITY'S POLICY

Away back in the early days of the Association, before ever there had been a conference with the managers, or even an intimation that they might not be willing to listen to Equity's proposals, Francis Wilson had presented a report to the Council in which he had said:

"It is very probable, with the best intentions in the world, that we shall not be able to accomplish the result at which we are aiming unless we can provide some financial support for those members who are refused engagements because they adhere to principles for which this Association stands.

"It is to be remembered that the strength of the mechanical Associations lies in the fact that their members will not work with non-union men and if their members are idle because of refusal to so work their wages are paid.

"The Actor's Equity Association could hardly go as far as this, of course, but it is not unreasonable to suppose that it could go as far as to pay a portion of the salary of any actor who had refused to sign an inequitable contract . . ." *

Ears which were later to become painfully sensitive to union tactics were not fully awake to the implications of this suggestion and it was accepted without comment.

While the negotiations with the National Association of Theatrical Producing Managers was wending its pleasant, if futile way Wilson again prodded the Council into action by suggesting that: "To obtain the general adoption of our contracts it would become necessary for all our members to refuse to engage in any company with actors not belonging to the Actors' Equity Association." †

This went well with some of those present, not so well with others, for it was a step in the direction of trade union practices. The Council fell back on its familiar device of appointing a committee to consider it, and the committee, through Kyle, said yes —if and when at least five hundred members were pledged to it.

The members' agreement, as then drafted by Turner, was in two parts: the first, a resolution of the Council defining the policy;

* Equity Council Minutes, September 2, 1913.
† *Ibid.*, March 9, 1914.

the second, the promise made by its signers.[7] The proposal was, in its essentials, Equity Shop with this not very important difference—Equity Shop is part of the contract between the actor, the manager and the Actors' Equity Association in which Equity is admitted to be a third party, vitally concerned in the faithful performance of the contract by both parties. The earlier Members' Agreement was merely a promise made by the actors to each other and to their Association through which all hoped to obtain the standard contract which seemed unobtainable otherwise.

The committee in charge of the circulation of the Pledge soon had an appreciable part of the five hundred signatures on paper, but in the meanwhile the Council had begun to glimpse something of the opposition it was going to encounter from the managers and raised the ante to fifteen hundred.[8]

An attempt of this magnitude made almost imperative the existence of an informed membership. And Equity was getting pretty big and spread out in those days. Already there were more than two thousand members and they were apt to be anywhere on the map. It was no longer possible for the Council to keep in touch with the membership personally, either by word of mouth or letter. There was danger, too, for an organization in which the rank and file had lost touch with its executives and neither knew nor cared what was going on at Headquarters.

Since October 29, 1913, the *Dramatic Mirror,* then a very important theatrical publication with a wide circulation, had kept at Equity's disposal a certain amount of space each week; but the Council felt that it ought to have some medium of its own through which the education of its members might be undertaken.

In December, 1915, the *Equity Magazine,* official organ of the Actors' Equity Association, made its appearance under the editorship of Frederick F. Schrader, of the staff of the *Dramatic Mirror,* and the guidance of a committee of the Council. Its first issue was eight pages in length.

But as the year 1915 drew to its close the Council had to admit that direct negotiations were not getting them anywhere with the producing managers and that, short of acquiescence to the prevailing situation, there remained only an immediate fight, or an alliance with some outside organization which would give Equity's requests a force they had not by themselves. It was to this latter course that Equity now addressed itself.

Chapter III

A FLIRTATION WITH ORGANIZED LABOR

Once more Equity took its hat in its hand, figuratively speaking, and presented itself at the door of the American Federation of Labor in Washington to learn on what terms the legitimate actors might hope to become a part of Organized Labor.

In brief, Equity learned that a charter covering the amusement field had already been granted to an organization known as the White Rats Actors' Union of America, a union largely composed of vaudeville performers which had been formed through the amalgamation of two smaller bodies some five years before, and that Equity would have to join this union, either as individual members, losing its identity, or as a union operating under a branch charter which would require certain drastic modifications of Equity's By-Laws.

Under that charter Equity could retain a certain amount of autonomy; it would have to change its eligibility rules and dues; it would have to hold weekly meetings of its members; employ union help and other union practices; but in return for these it would have behind it all the resources of the White Rats and behind that again, the powerful machinery of the American Federation of Labor.

Taken by and large these were pretty stiff terms for a body which was still inclined to rear and shy at the mere mention of the word "Union." The Council knew that it was due to answer a wholesale questioning as to the desirability and the necessity of such a radical step. The article by Edwin Arden in the March issue of the *Equity Magazine,* entitled "A Change of Heart" was, therefore, an attempt to answer some of these questions before they were asked. But, more than that, it was the story of the conversion of the Equity Council. And here is how Equity came to hit the sawdust trail to Organized Labor:

"There is an old saying to the effect that 'a wise man changes his mind; a fool never.'

"As a member of the Council of the Actors' Equity Association from its inception to the present time, the writer has had unlimited opportunities for close study of the mutability of opinions on vital A.E.A. subjects, held by the Executive Board during its three years' tenure of office. While our Council meetings have always been characterized by an unbroken harmony regarding the Association's ultimate aims, the diversity of opinion as to the surest and quickest methods of attaining our ends has been both interesting and, most important of all, they have been convergent.

"Our initial attitude was one of distinct conservatism. Both Council and officers were determined not to plunge the Association into disaster by hot-headed, intemperate and ultra-radical methods. It would seem that we had taken as our motto the old Friar's admonition to Romeo: 'Wisely and slow; they stumble that run fast.'

"We were feeling our way. We were carefully sounding the managerial depths and making accurate entries in our log-book of the leadsman's cry. We were diplomatic, even under circumstances that seemed to warrant revolutionary protest. We were advisedly cautious in avoiding useless clashes with the men from whom we were seeking an amelioration of the farcical 'contract condition.' But with all this caution and seeming timidity the acts of the officers and Council of the Actors' Equity Association have been characterized by firmness and dignity. In our efforts to gain the universal adoption of an equitable and standard contract, we were either snubbed, ignored, paltered with, or defied. We ignored the snubs, smiled at the hypocrisies and steadily looked defiance in the eye. We felt that the ultimate welfare of thousands of our fellow actors was too big a stake to jeopardize the winning of it by ill-advised, fire-brand tactics. We even risked losing the confidence of our members, who as time passed and our contract was not adopted might reasonably have asked, 'Why doesn't the Association *do something?*' We can even anticipate the reader of this article, 'Well, why don't they?'

"To that particular reader and to all others, we say frankly, *'It is up to you.'* Not at this moment, but before the annual meeting in May it will be up to the members of the Actor's Equity Association to forever emancipate themselves from the arbitrary, inequitable and dishonest methods of a majority of managers.

"In view of the foregoing statements, that the Equity Council has been conservative almost to the point of sluggish temporization, how can such a stage of activity have been reached so suddenly? The answer is that the change has not been sudden. It is a growth—the Council has been thinking—gravely, analytically, tensely and incessantly thinking. Individual, unvoiced opinions have been converging toward the one means—and the only one—that can accomplish our salvation. Divergent views of the Council members have been slowly crystallized into a unity of decision as to our only Trail out of the Wilderness. *That trail is affiliation with organized labor.*

"A short year ago, such a suggestion was met with unconsidered, obstinate opposition by many members of the Council. They argued that such a course was inconsistent with our artistic standard; that it meant absorption, and ultimate non-existence as an actors' organization; that it meant slipping from the yoke of one set of masters into another yoke, equally heavy, if not heavier, and thrust upon our shoulders by stronger and more arbitrary dictators. Our few advocates of association with federated labor did not attempt to dispel these fallacies. We had mastered the question from all its angles. We knew that our individuality as an association would not be lost or even dimmed. We knew also that planting the seed of our thought in the brains of earnest, loyal though sceptical Council members, would eventually bear fruit. It did! From perhaps three members who originally advocated association with organized labor, the number has grown so as to practically embrace the entire Council. And this Council is comprised of men of varying temperaments, views and organization methods. These men simply changed their minds. Not impulsively, not emotionally, not suddenly, but like the school-boy plodder who masters his lessons with difficulty, yet at the finish heads his class, these converts now stand as rocks in their belief that the success of the Association rests solely on allying ourselves with labor. Given a certain time for study of conditions and their effects and possible remedies, how could sane men think otherwise? When the records of our office show such overwhelming evidence of daily inequity, oppression, injustice and less than questionable business practices, who could reject an outstretched hand to help them out of literal slavery? When

such men as Victor Herbert, John Philip Sousa, Walter Damrosch, find it not only advisable but necessary to stand shoulder to shoulder with labor, why should the actor hesitate? Is it professional false pride, or stupidity, or empty headed vanity? Profession? Under present conditions ours is not a profession. It isn't even a trade. It hasn't the dignity of a vocation. *It's only a job.* And half the time we don't get paid for it.

"To those who know their minds on this subject, we say 'Speak them to us between now and the May meeting.'

"To those who are wavering, we say, 'Think.'

"To those who are opposed to marching to victory, backed by Federated Labor, we say—urgently and earnestly, 'Change your minds.' "[1]

This was a decided change from the pacific—and harmless—campaign of persuasion and education which the managers had so far regarded with benevolent amusement. Equity was actually showing its teeth! Some of the managers, indeed, may have felt that it was now exhibiting horns, hoofs and a tail as well.

AND A QUALIFIED PROPOSAL

The Council had reached the place where it knew what it wanted, but it did not know to what extent the membership was with it and it had no liking for a charge on the enemy breastworks if it was going to be the whole charge. A call went out for simultaneous meetings in New York, Boston, Philadelphia, Chicago, and Los Angeles, March 10.

Nearly nine hundred members turned out for the New York meeting at the Hotel Astor. The speakers had been carefully handpicked and every word was directed towards making affiliation with the American Federation of Labor, through the White Rats Actors' Union, seem not only desirable but inevitable. Their general temper was that of Wilton Lackaye, who said:

"For several years this association has been 'whereasing' and 'resoluting.' They have asked managers to meet them, they have sent courteous gentlemen and sane and cool-headed men to meet them, to talk it over with them. These men have either been refused a meeting or snubbed; there is no other word to use. Mr. Wilson . . . has been insulted practically and snubbed in

his endeavors to do this thing entirely by arbitration, and when one man comes into the Actors' Equity Association and says, as one manager did,* 'I believe that your contract is fair,' to the question, 'And when will you adopt it?' he said, 'When you make me.' If that is not a tip I don't know." †

Everything seemed moving smoothly to the point where a resolution could be offered pledging Equity to eventual affiliation with the American Federation of Labor on terms to be arrived at through negotiation, when Miss Verne Sheridan obtained the floor and informed the meeting that the Actors' Society of America, of which she was a Director, had already made application to the White Rats for a branch charter covering the legitimate theater.[2]

This announcement was a shock to everyone except, perhaps, Miss Sheridan. It had been generally assumed that the Actors' Society was either dead or breathing its last. Yet, here it was bobbing up with a claim which, if allowed, would mean that Equity would have to do business with the White Rats through the Actors' Society; might even have to surrender the Equity title which was beginning to assume real importance in the theater.

Despite this claim the officers proceeded to place before the meeting the proposal that at the Annual Meeting in May the Actors' Equity Association would vote on alliance with the American Federation of Labor. There was only one vote in opposition.[3]

Then, before the shocked and incredulous cries of the managers at this idea had ceased to echo, an Equity committee was splitting the breeze to obtain the ear of Harry Mountford, International Executive of the White Rats.

To such good effect did this committee talk that Mountford promised to recognize an Equity card as a union card until midnight of the last Monday in May, by which time it was expected that Equity would have come to terms, and agreed not to issue a charter to any other body of actors in the meantime.[4]

But after all this preparation Equity did not make the move, even though the Annual Meeting authorized it by a vote of 890 to 21.

For, while Equity was becoming increasingly sure that it desired eventual affiliation with the American Federation of Labor,

* William A. Brady.
† Minutes of the General Meeting, March 10, 1916.

the conviction was also growing that it should not be on the basis of the terms laid down by the White Rats. The Council felt, and this feeling seemed to be shared by ranking officers of the American Federation of Labor, including Samuel Gompers, its President, and Hugh Frayne, its organizer in New York, that Equity could and should receive better terms than had so far been offered. Particularly they felt that Equity should be allowed to retain its identity and not be required to become a branch of the White Rats, subject to a call to walk out from the White Rats' International Executive.

Nor were they inclined to look with a favorable eye upon the impending war between the White Rats and the powerful Vaudeville Managers' Protective Association, which was even then rolling up on the horizon. Already E. F. Albee had started the backfire of the National Vaudeville Artists, Inc., and Equity did not like the looks of things, even at this stage.

So the form of authorization presented to the Annual Meeting was simply: "That the Council be authorized in its discretion to ally itself with Federated Labor," which meant not on any terms, but on terms satisfactory to Equity.[5]

Mountford never forgave the Council members who had negotiated with him. He felt that they and Equity had double crossed him and had left him holding an empty bag. For the Actors' Society which Mountford had sidetracked in favor of Equity, and which might have accepted his terms, affiliated with Equity during the summer and left him in a considerably weaker position than he had anticipated for his vaudeville fight.

Certainly he was in no mood to abate his terms now and so Equity determined to go over his head and appeal direct to the Executive Committee of the American Federation of Labor.

THE FIGHT FOR THE CHARTER

But this method of procedure was alien to the Federation's policies, and however much its officers liked Equity, (and there is ample reason to believe that even at this early point in its history they did like it), they did not care to set up a precedent which might prove embarrassing to them later.

Perhaps, the Executive Committee thought, a conference with

officers of the Federation sitting in as mediators might either persuade Equity to throw in its lot with the White Rats, or induce the latter to surrender its charter to permit the formation of a sort of theatrical Federation with each group co-equal with each other group, as Equity had suggested.

Such a conference was actually held at the Hotel Continental, New York City, on August 10, and Gompers, himself, came up to sit in on it. But each side was standing pat and waiting for the other to knuckle under—and neither did.[6]

But Equity was fighting mad, by this time, and declined to accept the deadlock. It renewed the battle on the floor of the Annual Convention of the Federation at Baltimore. Of course Equity, not being a member of the Federation, was not privileged to make that fight itself, but friendly representatives of the New York Central Federated Union took up the cudgels in Equity's behalf.

Recounting the dissensions and dissatisfaction with existing conditions which had existed in the theatrical field even prior to Equity's trouble, Resolution No. 23 urged that the White Rats' charter be withdrawn and that the President of the Federation be instructed to call a convention on or before January 1, 1917, for the purpose of forming a new International Actors' Union to cover the whole field.[7]

The White Rats were really hard pressed. The United Booking Office, at the behest of the Vaudeville Managers' Protective Association had already declared war on that organization and had instituted a lockout of every act in its membership by requiring all acts applying for bookings to submit their resignations from the White Rats before October 31.[8]

So they needed their charter and all the support of the Federation of Labor which went with it. The loss of their charter at this time would be their death warrant.

Mountford and James William Fitzpatrick, White Rats' President, were no mean tacticians. They delivered a brisk counter-attack by introducing a resolution which urged that the Executive Council be discharged from further consideration of the question and that in the future any unaffiliated organizations, (by which they meant Equity), be "referred to the International Unions of the White Rats Actors' Union of America, the holders of the

charter, in conformity with the practice and constitution of the American Federation of Labor." [9]

The fight was a stand-off, for the Committee on Report of the Executive Committee recommended non-concurrence with both. But the White Rats had, at least, saved their charter, and that was a victory of no small proportions.

Flushed with success Mountford returned to New York and sought to capitalize his advantage by inducing Equity to accept the conditions he had laid down.

But Equity was not being rushed into anything at that moment and its answer outlining a form of alliance somewhat comparable to that of the American colonies prior to the Revolution left the two parties further apart than ever.[10]

Whatever the tension between the leaders of the Actors' Equity Association and the White Rats there was no ill feeling between the rank and file of the two organizations, as such. Certainly Equity had no desire to help the vaudeville managers smash the actors' organization, whatever it might think of its officers. And when it came to the attention of the Council that Equity members might be asked to help break the White Rats' strike, or rather to further the managers' lockout, the Council set the seal of its disapproval on the idea.[11]

The White Rats' cause was desperate, however, and benevolent neutrality on Equity's part did not avail them much. The powerful theatrical unions, the stage hands, musicians, transfer men, billposters and others, whose help might have swayed the balance, held themselves aloof from the struggle and the juggernaut of the Vaudeville Managers' Protective Association, with Albee at the wheel, simply rode them down and scattered the remnants on the theatrical highway.

Its decimated ranks were proscribed and blacklisted; its members who retained their cards did so at peril of their bookings and subject to spies and informers; its fine club house was taken over by the enemy through foreclosure and presented to the company union which had helped defeat it.

About all the White Rats' officers had left at this time was their charter in the American Federation of Labor and the bargaining power it gave them in negotiations with organizations such as Equity, which might apply for admission. To this they

clung as a shipwrecked mariner clings to the bit of spar which alone keeps him afloat and every attempt to separate them from this charter they resisted desperately.

So, when the Federation met in Convention, at Buffalo late in November, and the Committee on Adjustments recommended the withdrawal of its charter and the formation of a new International, Fitzpatrick, admitting that the White Rats was now practically a secret organization, rose to dramatic heights.

"How long has it been a crime to conceal union membership from the bosses?" he demanded. "We were, and are in a fight for existence. The blacklist faces every member known to be one of us. Our pockets have been picked in the dressing rooms by spies.

"You say that we are not going to lose our charter. That is mere camouflage. You do not propose to hit us on the head with a hammer, but you do propose to chloroform us so we will pass out quietly.

"I have made sacrifices enough during the last three years, but the most humiliating thing to me in the whole affair is to be compelled to come on the floor of the convention and beg for the support that is due to an international union. I ask you to give us the support that we have not ever refused to give any other organization in the union labor movement."

This eloquence captured the convention and when Fitzpatrick introduced a counter-resolution requesting that the Executive Committee: "Urge all actors to join the White Rats' Actors' Union and that all organizers of the American Federation of Labor be instructed to offer the White Rats every possible assistance," the convention voted it through with a will.*

It was a slim hold on their charter and a precarious one which the White Rats enjoyed, but for another year and a half Mountford and Fitzpatrick persisted in their stand that instead of their coming to terms with Equity the latter should endeavor to bring itself around to accepting theirs. And for that length of time Equity had to forego the very material assistance membership in Organized Labor would have given it in its attempt to force a standard contract from the reluctant producing managers.

* *Buffalo Express*, November 23, 1917.

Chapter IV

A STANDARD CONTRACT "SIGNED, SEALED AND—"

To all outward appearances Equity had wasted a whole year of its life on this flirtation with the White Rats and the American Federation of Labor, and at its end was just where it had started. Not even that, perhaps, for now it had neither the contract nor Labor's support in its quest for it.

Below the surface, however, the Council was inclined to believe that Equity was in a much better position than when it had dropped negotiations with the United Managers' Protective Association. Its membership, for one thing, had increased appreciably and was now well past the twenty-five hundred mark; those members had become accustomed to consider Equity their representative, and to trust the integrity and ability of its leaders; in such relations as had been maintained with the managers Equity had shown evidence of a fairness of purpose and a commendable cohesion and discipline on the part of its members. Finally, though the negotiations with Labor had fallen through, they had come close enough to consummation to give the managers pause and, perhaps, to induce them to consider giving a standard contract if only to head off just such an alliance eventually.

And when a letter asking for a conference on the subject was dispatched in March, 1917, lo, and behold, the managers were so inclined. It may have been for any one or all these reasons or it may have been due also to the tenor of a conversation between George Arliss and Marc Klaw * about that time in which Arliss had remarked:

"If you don't give the actors a standard contract there will be trouble—and I will be one of the leaders!" †

And there is the possibility, of course, that the managers were really friendly and convinced of the justice of Equity's request. At any rate, whatever their reasons, the invitation was accepted and negotiations were resumed.

*The Council Minutes say the interview was with Marc Klaw but Mr. Gillmore remembers it as having been with A. L. Erlanger.

† Equity Council Minutes, March 26, 1917.

In addition to the formal committees from the two organizations individual Council members did considerable missionary work with producers with whom they were on terms of personal or professional friendship; explaining Equity's feelings here, learning the managerial reactions there and cementing the fast-growing feeling of friendliness. These efforts bore such good fruit that at the Annual Meeting of 1917 Kyle, reporting the visit of the Equity committee to a full meeting of the United Managers' Protective Association a few days previously, quoted Lee Shubert, who presided, as saying:

" 'Gentlemen, you can take to your Annual Meeting this message, that we are in accord with you; the United Managers' Protective Association agree with you that it would be better for us and better for you and better for the whole profession to adopt a uniform equitable contract, and we think that we will get to it and without any trouble.' " *

With this spirit prevalent the work of drafting the actual document went famously. As early as July 17 the Council learned that the committees were in agreement on its details; and three weeks later, on August 10, it was ratified by the United Managers' Protective Association and turned over to the attorneys for the organizations for final drafting.[1]

With affairs in this stage it was possible for Wilson and Kyle to go to Chicago for the Fourth Annual Chicago Meeting of the Association, (August 24th), and to talk terms with the managers operating with Chicago as a base.

On August 23 Wilson and Kyle conferred with managers Rowland, Howard, Gaskell, Gazzolo, Gatts, Sherman and Stauffer, and secured a standard contract for the productions operating under their control.

Under this contract actors playing out of Chicago were assured that in the future they would receive full pay for every week worked; limited rehearsal periods; two weeks' notice of termination of contract; fares to the point of opening and from the point of closing, and arbitration by a local board of actors, managers and a disinterested outsider, for any issues which might arise under the contract.[2]

When Wilson and Kyle returned they found that Klaw had left

* *Equity Magazine*, June, 1917, page 13.

New York and the contracts had not gone to the printer. Even with his return nothing was done for a while because the Klaw and Erlanger office was busy with its new season's productions.

The Council was impatient, but previous experience with managerial temperament had indicated that the managers were not to be pushed into signing such a contract and that diplomacy was the most effective weapon.

Even so, the Council found that many managers considered the contract matter as good as settled, and that the Shuberts were issuing their own contracts with the typed notation:

"This contract will be superseded by the A.E.A.-U.M.P.A. Standard Contract as soon as it is ready." [3]

The managers did get around to it finally. October 2, in the offices of the U.M.P.A. was adopted the first Standard Minimum Contract between the Actors' Equity Association and any body of first class producing managers.

For the U.M.P.A. there were President Marc Klaw, Alf. Hayman, Benjamin Roeder and Ralph Long, (the latter representing the Shuberts). Equity was represented by President Francis Wilson, and Arliss, Cope, Kyle, Gillmore and Stewart. It was the biggest moment of Equity's life to date.

Equity had not won everything for which it had set out; but a good share of its objectives had been realized.

There was now, for the first time in the history of the American theatre, a standard contract containing the minimum conditions permissible which the U.M.P.A. promised to give to all actors in companies controlled by its members.

In that contract the actor was promised, after four weeks of rehearsal for dramatic plays and six for musical productions, a minimum of two weeks' employment.

While the manager could close the play without notice at any time within the first four weeks of its production, if it ran longer he must give one week's notice of closing to the company, and two to any individual actor let out.

The manager agreed to furnish all costumes for actresses earning less than $150 a week. Above that salary whether the actress or the manager furnished them was left to individual negotiation.

Eight performances was set as a basic week, except in such

theatres as had established the custom of nine, (and excepting a list of eleven holidays including Christmas, Columbus Day, Decoration Day, Election Day, Fourth of July, Labor Day, Lexington Day in Boston, Lincoln's Birthday, New Year's Day, Thanksgiving Day in the United States and Canada, and Washington's Birthday, all of which the actor agreed to play free).

The actor was granted transportation for himself and his baggage up to two hundred pounds, from New York to New York.

And finally, the U.M.P.A. promised to resort to arbitration to settle any disputes which might arise under the contract.

These were the salient points the actors had won after more than four years of negotiation. It was quite a bit—and looked even bigger to Equity.

In the first flush of this achievement Equity was ready to love the whole wide world. It felt, sincerely and honestly, that the contract now agreed upon, if not absolutely ideal, was more nearly fair than any that had ever been offered and that, in the spirit in which the final negotiations had been conducted, such inequities as might develop could be corrected amicably through arbitration.

In all friendliness and good feeling Wilson wrote to Marc Klaw on the date of signing the contract:

"The final ratification of the contract between our respective organizations is a matter of satisfaction and congratulation to all concerned. It brings managers and actors into closer, more equitable relationship than they have known in twenty-five years. That is not only much, but it is more than most people realize.

"We want to express our appreciation of the generous, fair-minded spirit that was manifest in all our meetings with the Managers, and we want to give our members an opportunity to meet the members of your Association, and with that in mind we suggest a Ratification Dinner of a most democratic character . . . *with no outsiders* . . ."

The managers, too, were feeling friendly and congratulatory and Klaw accepted immediately.

With the situation thus, the necessity for immediate affiliation with the American Federation of Labor was not so apparent. Affiliation was still desirable, yes, but Equity now had its con-

tract and the good will of the managers into the bargain, and the Council felt that it was in a position to stand out for its own terms.

When, therefore, Federation officials suggested that if the White Rats' Charter was taken up at this convention at Buffalo, Equity should accept a local charter along with other groups like the Screen Club, the German Actors' Union and others, under an International of all groups in the amusement field to be formed later, the offer did not seem particularly alluring. What Equity had asked earlier had been an international charter for itself. It still thought it rated that concession, and it didn't feel so much in need of that affiliation now, anyway. So Equity stood pat, did not even attend the meeting called for the Hotel Continental, and the White Rats put up a fight which saved their charter once more.

But that did not seem so very important in the light of the Ratification Dinner at the Hotel Astor, Sunday evening, November 25. There were five hundred actors and managers present and much wassail and speeches which probably sounded better than they were.

Pretty generally they echoed the sentiment which Klaw had expressed in his letter of acceptance: "We are all arteries of the same body, supplying life and blood to that body."

All was sweetness and light—no, not all, for Wilson speaking on a current rumor that because of the ten per cent war tax on theatre tickets, imposed by the Federal Government to bring in additional revenue for the prosecution of the World War on which the United States had now embarked, the managers intended approaching Equity for a general reduction of salaries, said:

"I feel sure, knowing the actor as I know him, knowing his generosity, knowing his charity, that the actor will be only too glad to meet the manager upon any rearrangement the manager may name, provided, of course, that this rearrangement is based upon an equitable consideration.

"What I mean by that is exactly this: now that Equity is established I know that no fair minded manager will ask the actor to rearrange his salary on a downward scale without also asking the musician, the stage hand and the various members of the staffs

both before and behind the curtain, also to rearrange their salaries on a downward scale." *

Now Gompers and other labor leaders had repeatedly announced that war time adjustments must not result in any lowering of wages, and for Wilson to condition his acceptance upon theirs was certainly a fly in the ointment. It was a small fly and there was lots of ointment, but its presence there, at all, was highly significant.

. . . NOT DELIVERED

"The Era of Good Feeling" ushered in by the Ratification Dinner was not long lived. Within a month both actors and managers were regarding each other with all the ill will in the world.

In obtaining a Standard Contract Equity had anticipated that, as it intended to see that the actors lived up to its provisions, the United Managers' Protective Association would be responsible for its members.

But within three weeks of the dawn of the era of good feeling the truce between the Shuberts and Klaw and Erlanger was abruptly shattered and they were locked in a savage, country-wide struggle.[4]

In the heat of battle the combatants had little thought or care for standard contracts with actors. Nor had the United Managers' Protective Association any control over Klaw and Erlanger, the Shuberts, or anyone else.

So, as early as December 11, 1917, the Council was instructing the Corresponding Secretary to write to the U.M.P.A. to inquire why its members, the Shuberts *et al,* were not issuing the Standard Contract, as they had promised.[5]

At this point the Council found itself face to face with the fact that the present system of staffing the Association with volunteer officers was not working well. The office was not operating efficiently, claims were beginning to pile up, and at any time those officers or Councillors who knew most about the situation were likely to be called out of town or plunged into rehearsals.

On the last day of 1917 an Executive Committee was appointed to reorganize the office. From the nature of the work the

* *Equity Magazine,* December, 1917, page 5.

Business Manager or Executive Secretary to be selected, must be an actor with a great knowledge of the theatre and of the Association. But he must also be willing to give up his career and devote his whole time to the service of the Association—for a fraction of the salary he could expect from his acting.

The committee offered the job to Frank Gillmore, member of the original Plan and Scope Committee and since then continually on the Council. Gillmore came of a long line of theatrical people, his immediate forebears being the Thornes, a well known English stage family. He was born in New York City but while still a baby he was taken abroad by his parents.

After making his début in the company of his aunt, Sarah Thorne at Margate, he returned to the United States where his first appearance was in St. Louis, in 1892, and "Settled Out of Court," (prophetic title), was the play. He speedily became one of the best known and busiest of the juvenile and leading men of the American theatre.

Among the stars with whom he played in those capacities were Mrs. Fiske, Henrietta Crosman, Mary Mannering, Bertha Kalich, Elsie Ferguson, and he was a member of the New Theater Company in 1910.

And always in those companies he used to get the members of the company together at any time and any place they could be gathered; in restaurants, hotel rooms, railroad trains, and yes, even saloons, where over sandwiches and glasses of beer they used to talk about the ways in which the theatre could be bettered and especially how the way of the actor might be made more smooth. Wherever the discussions started they usually terminated on this topic. And during the long, hard contest over a standard contract Gillmore had been chairman of the committee which had met the managers. He really knew the managers and how they felt about this contract better than anyone else in the organization.

It was not, however, an exactly munificent offer the committee on reorganization made him—a contract for three months at $50 a week, and Gillmore had two children of school age and not much put by in the way of savings—but he resigned from the Council and entered upon his new duties, with the title of Executive Secretary, January 17, 1918.[6]

The office felt the change at once but not so the producing managers. Despite the promises Gillmore garnered in personal calls the length of Broadway the managers just did not issue the standard contracts they had promised to issue only a couple of months before.

Appeals to the United Managers' Protective Association went unheeded. That organization was shot too full of holes by this time to make its members do anything. There was even some question as to whether it could manage to maintain its own existence, for rumors were current along about spring that there was a new association of producing managers on the way.[7]

For all the coöperation Equity gave the managers in staving off theatre closings, (to save light and heat), Liberty Bond Sales, and war relief of various sorts, it had only a collection of not very collectible promises. If Equity was not losing ground it was, at best, at a standstill.

AN APPEAL TO WASHINGTON

If the managers did not appreciate Equity's participation in these war activities, perhaps the government might. Ever since early in the year when the Commission on Training Camp Activities, under J. Howard Reber, of Philadelphia, had taken over organization of the Liberty Theatres in the cantonments, and in the ports, base camps and rest areas overseas, the actors in those theatres had been working on Equity contracts.

Not only that but Reber had written Equity at the time they were adopted: "We are using the Standard Contract in all of our theatrical forms. We consider it both fair and equitable both from the actors' and a managerial standpoint."

It might be possible, barely possible, that Equity could capitalize on that interest and friendliness. So the Equity President Wilson sat down and wrote to the United States' President Wilson, pointing out how great was the service the actors were performing in keeping up the morale of the army and the civilian population in the present crisis, adding:

"Just as our profession is doing its generous utmost to sustain the morale of our soldiers, so we ask you to sustain the morale of

our profession by word or intimation that all managers cannot do less than use the exceedingly just and liberal contract by which to-day the great Government of the United States engages its players, who thus come into the Government's employ as soldiers of the Republic.

"We believe, sir, that in this trying hour of the Nation, this trying hour of the world, the actor is playing a patriotic part, and that he should not be discriminated against by sordid and unpatriotic employers."

This last paragraph simply burned the managers up. That Equity should have held them up to the world in this light, (for the matter having been laid before the President gave the letter wide publicity), was much more than too much.

With acid reproach dripping from every letter of his reply Marc Klaw answered: "Managers of the United States, as well as actors, have shown themselves ready and willing. Personally, I don't think they are entitled to a pat on the back for that." *

Meanwhile the hopes with which this letter had gone forward to the White House had been rather dampened by the brief note in which the President replied on May 24. He said merely:

"My Dear Mr. Wilson:

"I realize the importance of the matter you laid before me in your letter of May twenty-first, and will take it up with Mr. Creel to see what is feasible.

"I know you will pardon the brevity of this acknowledgment.

"Cordially and sincerely yours,

"Woodrow Wilson."

The Creel to whom the President referred was George Creel, Chairman of the Committee on Public Information who was, in fact, General Press Representative of the United States. Answering Wilson he called attention to the fact that however much the government might appreciate the actors' services it could not confuse its appreciation with its powers and he did not see how the government could mix into this matter of purely private concern.

"The Era of Good Feeling" was hull down on the horizon.

* *New York Sun*, May 29, 1918.

AN INDIRECT LINE IS SOMETIMES A SHORT CUT

By now Equity knew that the managers were not only obstinate in their refusal to issue standard contracts, but some of them, at any rate, were highly incensed at Equity for the trouble it was making. The White Rats were just as obstinate and displeased with Equity as the managers, and not at all likely to forgive and forget at this short notice; and the Federation was unwilling to go over their heads. Now the government had shown a disinclination to mix in the quarrel. Clearly, if help was to come from anywhere it would have to be from within itself.

Before beginning its negotiations with the White Rats Equity had considered, and had experienced some measure of success in obtaining the pledges of a number of its members that they would work only in such companies where all actors eligible to belong to Equity were members. It was to become effective only when fifteen hundred members had concurred, and before anything approximating that number had signed up, the policy had been shelved for affiliation with Labor.

But it had seemed feasible at the time and the Council determined to have another shot at it. In view of the specific problem before Equity at this time—getting the managers to issue the standard contracts as promised—Turner was instructed to draft a pledge, or pledges, that might exert pressure on the managers.

He reported back with three pledges: the first a promise on the part of its signers to accept only the Standard U.M.P.A.-A.E.A. contracts intact; the second an acknowledgment that in case of violation the Association might apply for an injunction, (and in case of Equity's failure the member might do the same), and exact a penalty up to $1,000 damages; and the third a further promise not to accept any contract from a manager who was indebted to the Association or its members, or had been since January 1, 1915, and who refused to pay up.

The Council was under no illusions as to the requirements for putting those pledges into effect. That would be possible only when a majority of the influential players—men and women without whom the managers as a group could not cast their plays—had signed them. And so, once more, Equity started a campaign of education and persuasion—from the top down.

But if it came to a fight, (and who could tell what might come about with the managers in their present mood), Equity would need pretty close to a one hundred per cent membership. With the eligibility rules then in effect Equity could not take in members with less than two years' experience on the stage, (which, it happened, was also the class of actor which needed Equity protection most).

Yet the Council had in mind the possibility that if it let down the bars and admitted absolutely everybody on equal grounds the managers might recruit whole casts of amateurs, get them to apply for Equity membership and send them primed to Equity general meetings where they might well raise hob with carefully planned campaigns.

The Council got around that by creating a class of Junior Members at the Annual Meeting of 1918, those being actors with less than two years' experience on the stage, who could neither vote nor hold office, yet were entitled to all the other privileges of Equity membership. Let Equity have two years in which to train up these actors in the way it wanted them to go and the Council believed the managers could whistle for them in vain.

The same meeting witnessed the first election of actresses to the Equity Council. There had never been any reason why there hadn't been women on the Council before that time, except the fact that none had ever been nominated. The first to be elected were Katherine Emmet, Florence Reed and Helen Ware. Although they were the first to be *elected,* they were not the first to serve on the Council. A few days before the election Mrs. Thomas Whiffen, who was the first woman member of the Association, it may be remembered, had been appointed to fill the vacancy left by the resignation of Scott Welch.[8]

One other thing the Council knew, or most of the Council, any way: that is, if it came to a hard campaign to enforce its Policy and Pledge, Equity was going to need a lot more money than was in its treasury then, or was likely to come in from the present membership dues, even with the addition of a large class of Junior Members. So persuasively was the plea couched that the increase of dues was passed without opposition, but its imposition was left to the discretion of the Council.

It was not until the accounts of this meeting appeared in the

daily papers that the managers learned of the existence of the pledges and their provisions. It did not, you may be sure, add to the warmth of their affection for the Equity Council, or those they believed responsible for its adoption.

As a taste of what the signers of the Pledges might expect, *The New York Review,* speaking for more than the Shuberts, after rejecting the right of the Equity Council to legislate in such matters, as contrary to the Bankruptcy Laws of the land, concluded its article by remarking:

"Needless it is to say that such one-sided fairness cannot and will not prevail for the simple reason that managers will not stand for it. The question of employment rests with them and unless actors, whether they are members of the so-called Equity Association or not, agree to be really equitable they will find themselves without jobs." *

A SPLIT IN THE COUNCIL

Hitherto the Council had been pretty unanimous in its decisions. Not that there were not some disagreements over policies or strategy, but there had never been any strained relations or bad feelings up to this time.

But the drift of events which had placed Equity quite definitely in opposition to the managers had begun to draw lines which separated the bolder and more radical Councillors, led by President Wilson, from others who, for one reason or another, were not willing to precipitate a fight and who, hanging back themselves, sought to restrain the Council and the Association from such a struggle.

A contest between the two forces was inevitable—where and when it would occur was unpredictable. As it happened it came about over the question of the raise in dues authorized by the Annual Meeting.

The fight was precipitated by Gillmore's report that the treasury faced a probable deficit for the current fiscal year of five to six thousand dollars; that there was less than $500 on hand and $12,000 in the treasury; and that there was every probability that within the next fortnight at least one $1,000 bond would have to be sold to meet current expenses.

* *New York Review,* June 1, 1918.

Wilson did not feel that such a margin was sufficient for an organization in Equity's position, and suggested the immediate invocation of the raise to which the Annual Meeting had assented.

It was on this point that the opposition elected to stand. Here Howard Kyle declared his opposition to the Administration from which he had been drifting since the first of the year. And here he was joined by a considerable number of Councillors, some of them of great influence in the Association.

Kyle believed that a fight to keep dues down would endear him to a large part of the membership, and that such an issue would be too popular to oppose successfully. So he proceeded to argue that times were hard; that there was already a surplus on hand; and that until all other means of raising revenue had been tried and had failed, the raising of dues, (and the consequent loss of a great number of members, according to his prediction), should not be attempted.

So strong was the opposition at this point that the Council, by a close vote decided to drop this controversial point until fall, and had it put over to November.[9]

But the issue was too live to stay buried and despite Kyle's determined opposition the matter was reopened at the very next Council meeting.

The interim gave the proponents of the measure time to get their breath and reform their forces. It also served to indicate that Kyle had misjudged the temper of the actors. For an examination of the membership records showed that the proposed increase in dues had not been reflected by a panic. No resignations had come in and several new members had joined under the impression that the dues had already been increased. Kyle was simply standing on an issue that was not there, and though he continued in his opposition the raise in dues went through on September 3, effective November 1.[10]

INVINCIBLE FORCE AND IMMOVABLE OBJECT

From that action the Council moved straight to the application of the Pledges in all their force. By September 17 the committee in charge of the Pledges, after an analysis of the signers was able

to announce the signatures of 1,070 players, of whom 446 were important, theatrically speaking, and 46 were stars.

That was all the Council was waiting for. At the same meeting the Pledges were declared to be in effect immediately. It must have been apparent to the Council that that action was provoking a meeting between the well known invincible force and the equally well known immovable object. But the logic of events permitted no turning back at this stage and the Council threw down its gage.[11]

What the Association might do about such of its members as violated their pledges by accepting less favorable contracts or playing for debtor managements was still to be decided. The Council was a little inclined to pussy foot on the question, at first, but finally it came out with the bold decision that offenders were liable to expulsion and that Equity members might not play with them.[12]

These decisions arrived at, the Council engaged the Ball Room at the Hotel Astor for Monday, November 11. But suddenly, on that very day, a weary and suffering world learned that an Armistice had been concluded between the Central Powers and the Allies on such terms as to preclude a resumption of fighting.

All the nations engaged in the struggle now concluded gave themselves up to unrestrained rejoicing and in no community of any of them was the delirium more frenzied than in New York. To hold such a meeting as Equity proposed on that day was clearly an impossibility and the Council did not attempt it, but advanced the time of the meeting to the next Sunday, November 17.

Since the basis of Equity's stand was the matter of the standard contract Wilson suggested that one of the managerial contracts, preferably one of the Shuberts', because they were the largest single employers of actors in the legitimate theatre, and not that their contract was other than typical of those offered most actors, be analyzed as a sort of "Horrible Example" for the meeting.

Now news of this got back to the Shuberts and it cannot be said that the fact that Equity was planning to hold one of their contracts up to the X-ray of legal analysis was received with any appreciable pleasure.

The displeasure they felt was centered on Francis Wilson. On several previous occasions Wilson had annoyed and offended them anyway and this was the last straw. Just before the meeting Lee Shubert served notice on Equity that from that time forth, as far as the Shuberts were concerned, Wilson was not to serve on any committee which might have to arbitrate questions between them and Equity, nor was he to give out any statements for Equity on subjects which concerned the Shuberts or any of their actors.* That gives some sort of line on the feelings the Shuberts held toward the Equity leader.

Nevertheless the meeting was held and the Shubert contract was analyzed by no less person than the Honorable George W. Wickersham, former Attorney General of the United States. He characterized the instrument as "an agreement whereby an actor secures something—thinks he secures something. But if he looks closely he finds he has not secured anything at all." Of the behavior of the managers with regard to it, Wickersham said: "Some years ago Mr. Dooley said, referring to Aguinaldo, who at that time was making claims to everything in the public attention—'Hennessy, I tell you what we would do with that Aggie—whatever his name is—if he lived in our ward. We would first give him what he asks, and then throw him down and take it away from him.' " †

Yet this was the contract to which the managers were stubbornly, yes, even desperately, clinging.

* Equity Council Minutes, November 19, 1918.
† *Equity Magazine,* November, 1918, page 8.

Chapter V

GATHERING STORM CLOUDS

The period upon which the Association now entered was trying and at times tragic. While there were comparatively few instances of definite refusals to issue the standard contracts the members of the United Managers' Protective Association pretty generally waged passive warfare against Equity.

Individual actors would be given the old form of contract, or no contract at all. The manager was too busy, or he was out of town, or—the excuses never did come to an end.

Sometimes Gillmore would take the trail of these contracts and some time later, after unconscionable delays, slips, omissions, the contracts would be issued, grudgingly, unwillingly, with resentment rankling that Equity should have forced the issue.

At other times extra matinees or Sunday performances were played in towns where such performances were not sanctioned by previous practice. Then there would be no extra pay for the company; or, if it was given, an extra ninth—or in one instance where there had been two matinées, one-tenth of the weekly salary instead of one-eighth.

There was a company playing Boston which was called on for an extra matinee performance during the celebration attending the visit of President Woodrow Wilson. The members were not paid for it and laid their complaint before Equity. Over a period of four weeks Equity negotiated with the management, first urging and then demanding that its members be paid one-eighth of their regular weekly salaries. The management listened politely—and did nothing.

On Thursday of the fifth week the producer was informed that the matter must be attended to without delay. He passed the case on to his secretary and that individual was informed that Equity expected immediate action—on Friday at the latest. Still no salary and no indication that salary would be forthcoming.

Saturday morning the Equity representative called up the man-

ager and informed him that unless the extra matinee of five weeks previous was paid for there would be no matinée that afternoon.

"Bolshevik stuff," was the manager's bitter retort.

The company, now in Brooklyn, received its orders and agreed to abide by them. Then the company manager got the bad news. And it *was* bad news, for there was a line at the box office that minute. The manager looked serious and put in a phone call. Reluctantly, very reluctantly, the promise was forthcoming—and later the money.*

The minutes of the Equity Council meetings between November, 1918, and May, 1919, are filled with the records of such cases: minor brushes from a tactical standpoint, but stubbornly fought and leaving in their wake bitterness, bad feeling, and mounting animosity against Equity for stirring up all this trouble.

While there was as yet no barometric reading which would indicate the approach of the tempest which was to all but wreck the theatre in a few short months, the horizon was overcast by gathering storm clouds the possibilities of which Equity could not afford to neglect. On March fourth the negotiations with the American Federation of Labor which had been dropped for just about a year were quietly resumed.[1]

But Equity had too much experience with negotiations to place much dependence on the successful outcome of these. The Council felt that the Association must be prepared to stand on its own feet and take care of itself and of its members if the worst came to the worst.

So, even in advance of the affiliation which might come from these talks with Gompers and Frayne, Equity found itself drifting steadily toward one of Labor's most fundamental strategies—the Closed Shop.

The Association had now approximately three thousand members. They represented between forty and fifty per cent of all the actors and actresses in the legitimate theater of the country. But in many respects they were the flower of the field, the best, most prosperous, most responsible of the players. If they would agree to stand together and to play only in such companies where all members were Equity members in good standing, the remaining actors would have to come in and stay in; for the Equity

* *Equity Magazine*, May, 1919, page 10.

actors were the sort the managers considered the backbone of their companies, and there were not enough such actors outside of Equity to supply the casts of many first class productions.

And, once Equity had all the actors in the country buttoned up in its uniform the managers would have to issue the standard contracts and keep them, too, in order to stay in business. It was quite simple when you put it that way.

Equity had already made a beginning of such a condition by the application of its Pledges and Policy, but a closed shop is only really effective when the entire industry is so covered that there are no loop-holes for dissenting employers or employes.

It seemed best to the Council not to spring this decision on the membership, but to lay the situation before it, explain the difficulties with which the Association was beset, and give the members a chance to think it over before voting on it. Such a course was not without its dangers for thinking tends often to obstruct action, particularly in large organizations. In consistently following this method Equity again varies from the tactics of many, perhaps most Labor organizations.

To this meeting Wilson said plainly that it would mean a closed shop in the theatre if passed on favorably by the Annual Meeting, but when he asked them if they would be willing to pass on it at that time there was not one single vote registered in the negative.*

THE AMBUSH AT THE CLARIDGE

It did not take long for news of this action to get back to the managers—and but little longer for Equity to experience its repercussion. A week later Charles D. Coburn whose production of "The Better 'Ole" had made him a successful producing manager almost overnight, telephoned the Council that a new organization of producers, known as the Producing Managers' Association had been formed, and would like to meet the Council to discuss the contract at a luncheon to be given at the Hotel Claridge, May 2.

From the evidence which has come to light subsequently, it appears that the Producing Managers' Association was organized

* *Equity Magazine,* May, 1919, page 11.

in October or November, 1918, though it had not yet been incorporated.

It was an attempt to get the producers, as distinct from the bookers and theatre managers, into one organization which could work together on the problems peculiar to the producers, without the internal strife which had already practically destroyed the United Managers' Protective Association.

For that reason, in its initial plans at least, bookers and theatre owners had been expressly excluded from membership in the Producing Managers' Association.

The three functions, however, are so intertwined in the New York theatre that they are practically inseparable. Producers also own theatres and book attractions into them, when none of their own is playing. Klaw and Erlanger and the Shuberts, the bookers par excellence, also produced and owned theatres. And so, while a number of the out of town theatre owners, and the motion picture and vaudeville allies of the U.M.P.A. were not included in the P.M.A., just about all the first class producers were on its rolls.

There is every reason to believe that these managers were resentful of the pressure Equity was exerting to secure the issuance of standard contracts; were irked by the provisions of the contracts themselves; were increasingly scandalized by Equity's flirtation with the American Federation of Labor; and were generally coming into agreement, spoken or not, that the Actors' Equity Association had better be scotched before it became too powerful.

While the luncheon dishes still littered the tables, Winthrop Ames rose to remark to an attentive but uncomfortable Equity audience, that the managers were not satisfied with the workings of the Standard Contract, and desired to suggest a revision. Particularly they objected to the limitation of the free rehearsal period brought about by Equity.

The words were commonplace and friendly enough, but something beyond what was said, something in the demeanor of Ames' fellow managers, warned the Equity representatives that the dissatisfaction lay deeper than this one clause in the contract.

Equity was not ready to surrender the offensive. When Wilson rose it was to reply that Equity, too, felt the existing contract could be improved upon. What he would suggest, said Wilson,

was the definite establishment of eight performances as a basic week, with all over that figure to be paid at the rate of one-eighth of a week's salary for each.

So far the luncheon had gone along amicably, if contradictorily. But in the course of his remarks Wilson said:

"Five years ago we came before you with our hats in our hands —well, it's different, now!" And later he added: "If we could have a closed shop, see how we could protect you!"

The luncheon was in turmoil. Belasco was up. He would retire before he would agree to any such thing. Miller leaped to his feet:

"Every man here, put up his right hand and swear never to produce again if Equity establishes a closed shop!" he exclaimed. And every manager was on his feet, right hand in the air, taking the dramatic oath.

Some semblance of order was restored finally, and Brady suggested the appointment of committees to consider the proposition and counter-proposition. On the managers' committee were Marc Klaw, John L. Golden, Henry W. Savage, Charles D. Coburn, Alf. Hayman, and Winthrop Ames. For Equity there were Wilson, McRae, Cope, Gillmore and Stewart.

When the committees met the managers had several suggestions to make. They wanted an additional week of rehearsals without pay, for shows that had already been playing, before openings in either New York, Chicago, Boston or Philadelphia—but only in one of those cities. They wanted an assurance from Equity that it would not institute a closed shop or affiliate with the American Federation of Labor—and in return for those concessions the committee thought the managers would be willing to accept Equity's basic week of eight performances.

Now the Council was willing to meet the managers a good part of the way. It was inclined to feel that there might be something to be said in favor of this request of a layoff before opening, though it thought that three days ought to be enough.

Further than that the Council did not wish to go. It did not believe in tying itself up with any agreement not to institute a closed shop, or not to affiliate with the American Federation of Labor in advance of a definite contract—and perhaps not even then. The eighteen months of its relationship with the United

Managers' Protective Association had shown the Council how much value there was in an agreement without power to enforce it. So the Council instructed its committee not to take any action that would lead to the disruption of the Association or that would tie Equity's hands *finally* in any action for the closed shop or Labor.[2] And, the next day, it told its committee to stick for the eight performance week.[3]

The managers' committee did not seem to consider these suggestions radical or unfair and even agreed to recommend their acceptance to the P.M.A. Had the joint committees been empowered to act there is a bare chance that the fight might have been headed off at this point. It is, however, no more than a bare chance, for the P.M.A. was in a decidedly hostile frame of mind and was quite in the mood for a trial of strength with Equity—was, as a matter of fact, fairly spoiling for a fight.

At any rate when next the committees met Equity learned that although the managers' committee had recommended their proposition to the organization they represented, with only one dissenting vote, the latter had proceeded to slaughter it by a two-thirds majority.

The Council was still standing on the eight performance clause, officially, but, bold as its position was to all outward appearances, a number of its members, probably a working majority, had agreed that if the managers would concede the eight performance clause, Equity would agree not to join the American Federation of Labor, for a period to be decided by mutual agreement.

But before the Council had taken any formal action on this concession Gillmore encountered Colonel Savage and the latter demanded whether or not Equity intended to stand out for an eight performance week.

Gillmore was in an awkward position. The Council had in mind, apparently, trying to strike a bargain on the matter, but he had no authorization to speak of it—as a matter of fact the Council might do no such thing.

But Savage was not in a temporizing mood. He wanted an immediate answer—and that a "Yes" or "No." In that dilemma Gillmore could only say:

"Yes, Equity means to insist upon an eight performance week."

It was at that point that the negotiations turned definitely from peace to war.

THE BREAK

Equity heard nothing officially from the Producing Managers' Association for a week. In that time, however, it learned from the newspapers and from other unofficial but seemingly well informed sources that the managers considered Equity's stand on the eight performance clause as sufficient grounds for a fight.

These unofficial reports were confirmed by the action of twenty-nine members of the Producing Managers' Association who, in a four hour session at the Hotel Claridge, on Friday, May 23, voted to sever relations with Equity. Rejecting Equity's proposed contract as involving too many departures from accepted conditions, Secretary L. Lawrence Weber's letter concluded:

"It would not be possible, I am instructed to add, for us to deal with an organization which so far departs from its original ideals as to threaten the profession with what is known as a closed shop." [4]

Equity also learned that the managers had retained Bainbridge Colby, later Secretary of State in Woodrow Wilson's Cabinet, as their chief counsel.[5]

Actually a number of managers felt that this last was merely a gesture, that there would never be any fight, because Equity would not get to that point.

They felt that this determined and aggressive attitude on the part of the Council was the work of an official clique which did not have the membership behind it. They believed that if this membership realized how close to a real fight with the organized might of the producing managers these "Bolshevik tactics" had led them they would repudiate the clique and sue for peace.

The managers intended to give the membership this chance at the Annual Meeting of the Actors' Equity Association, at the Hotel Astor, on May 26. At this meeting they were counting heavily on the support of a considerable number of actors who, for one reason and another, might feel that the managers' interests were theirs also.

Some of these managerial supporters were practically managers themselves, and were inclined to view the dispute from the standpoint of its effect on their own managerial ventures. Others felt bound to certain managers by ties of long association, or affection, or future opportunities. Still others feared to risk

their careers on the ability of Equity to put its program over. Why should they put their trust in Equity who had seen other actors' associations fail?

Just how strong this reactionary element was the managers did not know. But, then, neither did Equity's leaders, and this uncertainty was all in the managers' favor. It seemed probable that stiff and well organized opposition to affiliation with Organized Labor at this instant would throw a good scare into Wilson, Gillmore, *et al.*, and would be likely to slow down the move for affiliation. If strong enough and well enough organized such opposition might even cause that program to be sidetracked permanently.

A meeting of these actors, who were inclined to favor the managers, was held just prior to the Annual Meeting at which their strategy was worked out. The principal speaking was to be left to Blanche Bates and Charles D. Coburn, (whose resignation from the Council had gone in immediately following the luncheon at the Claridge). Their reception by the meeting would guide their future tactics. Whether or not this meeting was supposed to be secret, it is a fact that the Equity Council knew of it, was aware of the plan of campaign, who would be the speakers and even, in a general way, what they were likely to say.

THE FIGHT AT THE ANNUAL MEETING

Twenty-five hundred members whose curiosity had been fired by the newspaper publicity given Weber's letter and the other newspaper stories of the severance of relations between actors and managers, crowded the Astor's Ball Room. There were several hundred who would have liked to get in but who were prevented by that law of physics which reserves one space for one body.

The preliminary business went off smoothly enough, though the action of the Nominating Committee in passing over Howard Kyle for any office after his six years of continual service might well have provoked comment. It was not until the meeting got around to consideration of what should be done, in case the managers declined to accept the arbitration the Council had been

authorized to offer, that the first flurry of opposition made itself felt. Then Blanche Bates, as per schedule, obtained the floor:

"'I don't want to stand here as one who is opposing,' said Miss Bates, 'but it is the fact that at this moment the theatre is in a very ticklish position. It has a rough path. They are facing war conditions, exactly as a soldier going to fight on the other side. We are facing conditions in our theatres—our theatres which are not only our life but our glory; the theatre is the thing we live for and by; and are we actors going to be accused of putting the rock in front of them, that we are going to wreck them? We are not in the condition of capital and labor—'

("Cries of 'We are! We are!')

"'Oh, no we are not; because we do not work with our hands; we work with the one thing God has given us, our hearts, our souls. We earn, of course, a return for our labors—we are not parasites; we love it and it is our glory, it is our world.'

("Cries of 'Oh! Oh! Oh!')

"'I cannot stand here, as a woman who has put twenty-five years in this work, whose mother was in it before her, and her grandmother before her, who has been true to the traditions of it all, and see us putting ourselves in the position of disgruntled laborers. We are not laborers.'

"The President: 'May I say this to Miss Bates, that with a very slight concession on the managers' part it is quite easy to take us out of this disgruntled position.' (Applause.)

"Miss Bates: 'Shall we put ourselves in the position of throwing the first stone? Of making the big demand? I do feel that I want to make a passionate appeal to those who think that we are not being treated squarely . . .'

("Laughter and cries of 'Oh! Oh!')

"'When we do these things we are attacking the very things that are the essence of our very lives, the glory of our lives . . . We are not laborers and what we have cannot be capitalized. What we give cannot be weighed and measured. Don't let us do something that we will regret doing.'

("Expressions of disapproval from the meeting.)

"'Isn't it dreadful to think that we, ourselves, are doing it to ourselves. The one thing that we have studied for, that we are not as other men—don't forget that—'

("Cries of 'We are; we are; we are!'")

The answer to Miss Bates came from John Cope:

"'The conditions in regard to holiday matinees in those days were very different and the reason for that is that thirty-five years ago the theatrical business was not a business at all, but a precarious existence.

"'There was not one manager in three made any money at all, and not more than fifty per cent of the actors got more than half their salaries; and consequently everybody in the theatrical profession, which I can testify to, being in it at that time, jumped at the opportunity of working at performances where there was some money realized, and those were the holiday matinees, which gave them their largest returns. That is an absolute fact. Obviously that condition does not exist today. It has no logic or reason for existing . . .

"'Another thing I want to say is this, that a few months ago we found our artists, our estimable people, our rich people, our people of substance coming down and getting together with the moulders, and the bricklayers and the buttonhole makers, eating with them, bunking with them, and finally going across the seas and fighting with them, (Applause); and I submit to this or any other body in the world, would any of them suggest that those artists and others have lost caste by the action they have taken?'

("Cries of 'No; no; no.'")*

Coburn's turn came just as Wilson was putting the matter to a vote. In what was evidently a well-considered and studiously careful speech he said:

"'I think it is the duty of the President to call the attention of the members of this Association more vividly to the fact that the present Producing Managers' Association is a new organization; and its first step was to form or incorporate a contract or agreement between the actors and the managers . . . we started out to establish equitable relations between the managers and the actors; and we were informed by the United Managers' Protective Association that it did not control its membership; but there were certain men in that organization who did not live up to their agreements. You must not pick out individual people as an example. We are trying now to deal with a fair mind and to do justice to the fair-minded manager and actor. We cannot do that at the present time. I should say it would be inadvisable to do it with a club—we are opposing tyranny—(Cries of 'Hear, Hear')—and we don't want to practice it. The

* *Equity Magazine*, June, 1919, page 13.

new organization asks to meet this association and discuss the terms of the contract, and it is the impression that an ultimatum has been presented to it—'

"The President: 'That was wrong, sir.'

"Coburn: 'That was the impression. I should say that that impression can be corrected, and that should be the first effort, and for the correction it is not necessary to carry a club. . . .

" 'I am on both sides, and it is very hard for me to speak now because you may think my mind is prejudiced as a manager; and the managers think the same thing, that my mind is prejudiced as an actor. Nevertheless, I feel that I am in a position to know, probably, that we will make more headway if we will meet the managers as we want them to meet us; and before we do anything which we might regret, let us take every precautionary measure before it is done. That is all.' (Applause.)" *

With these speeches the case of the opposition had been placed before the meeting. This was the opportunity for the meeting to bolt the Council, if it was going to do it, but when the proposition to take authority from the hands of the Council had been put it was voted down with but scattering support and the motion to leave all power in the Council, whether or not the managers arbitrated, went through with only slight opposition.[6]

"NO ARBITRATION"

The immediate response of the managers was not direct; but Equity learned in very short order what it might expect eventually. Briefly it was, "No arbitration."

"By this, the managers were careful to add, it is not meant that the managers are not willing to listen to the actors' side of the various questions. They merely wish to say that they will never place such a momentous problem in the hands of an arbitrator or arbitrators for a final decision. To abide by such a decision, should the arbitrator decide against them, many of them feel certain, would mean financial crisis or possibly ruin.

"It was proposed yesterday, that if a discussion does take place, that each side have five or six speakers, and that each of these alternate in turn. Several judges, up to the number of six, would sit as a court and the decision as rendered, be submitted at the following meeting of the managers' association.

* *Equity Magazine*, June, 1919, page 16.

"Up and down Broadway it was rumored also yesterday, that the first movement which would be made by the managers, should the Equity Association prove annoying, would be to demand a standard wage for all actors who are connected with it, whether headliners or not. This would apply to stars who are now getting hundreds of dollars and place them in the class of thirty-dollar-a-week artists. This would not apply of course, it was rumored, to those Thespians who are not members of the equity organization, and those persons would get the salaries now prevailing. It is believed that a recognition of the union along these lines would be quite a problem for the union to solve.*

The *Telegraph's* proposition was to hold a debate of which the final judge was to be one of the interested parties—a judge, moreover, who was even then announcing his decision upon one of the major points in dispute. The threat to cut salaries was an ancient bogey. It was by this time getting to be a familiar one, and did not cause the shudders it was intended to.

So, while it was a disappointment, it was no great shock when Weber replied on June 5:

"I am directed to say in reply to your favor of May 27th that the Producing Managers' Association has decided to issue its own contract embodying all the terms and conditions of the contract which has been so satisfactory to actors and managers for the past two years, with this one change:

"Should any difference between the actor and manager arise, arbitration is provided whereby the actor and manager shall appoint his own arbitrator, and that these two shall appoint a third."

Superficially, this was not so far from what Equity had been asking, but the difference was enough to make the proposal totally unacceptable to Equity. For Weber's letter made the *actor, not Equity,* responsible for the arbitration.

In actual practice it would have made any dispute a personal one between the actor and manager involved, with the odds, through the employing power and the community of interests among managers, entirely on the manager.

It was, moreover, a notice that Equity, as an Association, was no longer recognized as a party to the dispute, with a stake in it. To have accepted it would have been to undo the work of six

* *New York Morning Telegraph,* May 28, 1919.

toilsome years during which Equity had built itself up as the impersonal shield and buckler of its embattled members.

AN S O S TO LABOR

Now, the Council thought, was the time to exercise the discretion with which it had been endowed for affiliation with the American Federation of Labor. Polling itself by telegraph, the Council found that it stood twenty-eight to four for immediate action. And as luck would have it the American Federation of Labor was convening in Atlantic City in ten days. Wilson and Gillmore were authorized to make the appeal.

But the White Rats' officers saw no need to surrender their charter to Equity. If Equity needed their help, let it meet their terms. And between the eloquence with which Mountford and Fitzpatrick defended their right to life, and the disinclination of the Federation to authorize a dual organization, when the Convention adjourned, the charter was still in their pockets.[7]

The producing managers were not slow to realize that Equity was out on the end of a limb, and inched out to drive it off. On the same day the Convention adjourned, the Producing Managers' Association let it be known that its contracts and no others would be issued—that, as a matter of fact each member had been put under bond of $10,000 not to issue Equity contracts.*

The next day Sam H. Harris, P.M.A. President, announced that a new batch of the managers' contracts had arrived from the printer, and that actors could take them or leave them.†

And, knocking the last hope of peaceful settlement on the head, the Equity offer to arbitrate the matter before either ex-President William Howard Taft, or former Governor of New York, Charles Evans Hughes, was curtly, if informally dismissed by Harris:

"Sam H. Harris . . . said yesterday that the managers would be glad to meet Mr. Taft and Mr. Hughes at any time, but that there was nothing to arbitrate. The managers had simply decided, he said, to issue their own form of contract containing their own

* *New York Morning Telegraph*, June 24, 1919.
† *New York Morning World*, June 25, 1919.

arbitration clause and to deal with the actor individually instead of with his Association.*

The Council and the Equity membership were really receiving a brutal bludgeoning by now. It was the season at which players who had been out on the road were drifting back to New York, when normally the managers would be laying their plans for the next season and lining up their casts, when actors would be stirring around to try to place themselves.

And those who had signed the pledge simply could not get jobs if they held out for Equity contracts. "You know you don't need a contract with us. Just a letter or a handshake on the terms is as good as a bond." That would be one story. "We're sorry, but if we issue those contracts, (Equity's), we'll forfeit our bond and maybe our bookings." That was another. Or it might just be what Sam Harris had said: "There are our contracts. Take them or leave them."

It was terrifically hard on members who were without jobs, and who needed them, to turn down some of the offers they received. For the managers, once they found an actor standing on his Pledge, could afford to promise him terms far beyond what he had been used to receive.

And Equity was not in a position to do anything for those who kept their word and held out for Equity contracts. The Council was in almost continuous session in the offices of the Association in the Longacre Building, at Broadway and Forty-Second Street, and every day dozens of broke and desperate actors came in and told their stories. They were willing to turn down the contracts, but how could they live? Here was a manager for whom the actor before them had worked in other seasons who was offering him a good contract, (but not an Equity one), and ready to advance enough to keep the actor going until the play opened. He didn't want to take it. He wanted to stick with his Association. It was right. But, he needed the job. He hadn't any money and he couldn't see his family suffer. Well, could Equity give him something, anything, so his wife and children would have a place to sleep and something to eat?

It was heartbreaking, for there was no Strike Fund, or anything like the necessary sum available and the Council under the

* *New York Times,* June 25, 1919.

pressure began to weaken. Some of its number began to feel that Equity was asking too much of its members, that it ought to be willing to lift the Pledges.

Wilson and others felt, however, that it would be a tragic mistake to allow the members to accept the managers' contracts—that a great majority of the actors had reached a pitch of enthusiasm and loyalty which they might never regain. But unless something tangible could be achieved in a relatively brief time the Council would surrender. Wilson knew his Council and he knew that it was beginning to slip.

On the Fourth of July Wilson went before the Council to plead for two weeks' leeway. In that time he promised to reach an accord with Labor. If he could not do it, then Equity would have to back down on its Pledges and the fight might well be lost.

It required all of Wilson's pleading, all of Gillmore's persuasion, all of Turner's arguments to bring the Council to give even that much time. But they got it.

It was now no longer a question of standing out for an independent International Charter. Equity had to go to the White Rats and make the best of what it could get.

At the same time the White Rats were not quite so defiant and unyielding as they had been at Atlantic City two weeks before. Organized Labor was generally sympathetic to the fight Equity was making; wanted Equity as the first of the group of professional and artistic workers in the Federation and was not too well pleased with the tactics by which the White Rats, with almost no members and no advantages, had for two years barred Equity from admission to Labor's ranks. So a good deal of pressure was exerted to make the White Rats reasonable at this juncture.

And when a new intermediary, W. B. Rubin, a prominent labor attorney from Milwaukee, entered the situation and gave an opportunity to make them gracefully, the Council learned that Mountford and Fitzpatrick were willing to make concessions such as they had never entertained before.[8]

After three years of backing and filling, of negotiations and counter-proposals, Equity was at last on the threshold of the American Federation of Labor.

Chapter VI

THE ASSOCIATED ACTORS AND ARTISTES OF AMERICA

The terms finally worked out were in the nature of a compromise. Equity had not the International Charter for which it had been asking; but neither had it been required to become a Branch of the White Rats Actors' International Union of America.

The White Rats agreed to turn in their charter to the Federation which would issue a new international charter to cover the entire amusement field. Within that international would be a number of unions, each of which would be autonomous in its own field. So, instead of being subordinate to the White Rats, Equity stood on an equal footing; and, because of the system of representation on the International Board by which each union was entitled to one representative for every three hundred members in good standing, Equity was likely to be the dominant factor in the new international.

July 18, the very last day of grace allowed by the Council, there was created the Associated Actors' and Artistes of America, more familiarly known to the theatre as The Four A's.*

The officers of the Four A's indicated the nature of the compromise. Equity had been conceded the Presidency and Treasury; the White Rats had reserved the Executive Secretaryship and Vice Presidency for its own officers, at least on this first board.[1]

Equity sent no direct notification of this step to the Producing Managers' Association, nor was there any real need of it, for the newspapers attended to that.

The P.M.A. got together on July 22 at the Hotel Astor to decide what answer it should make to Equity's move. Before that meeting also appeared E. F. Albee, who presented the tactics which had proved so successful for him in his campaign against the White Rats in 1916-1917. Briefly, his advice was to smash the legitimate actors' union by following these three simple rules:

* Equity Council Minutes, July 18, 1919.

1. Attack the actors' leaders. Shake the faith of their followers in every possible way.

2. Wean from Equity as many actors as possible through the offer of more advantageous contracts than they have ever had if they will stand by their managers in this crisis.

3. Organize a rival association headed by as many prominent players as can be gotten together quickly. Give this company union everything it wants. Above all, refuse to recognize the Actors' Equity Association.*

Whether or not the managers paused to consider that there might be a difference in the character of the membership of the two organizations, or in their leadership, is not apparent. If they did it was not for long, and the difference was tossed out the window. Albee's plan was accepted by the meeting.

Once they were endorsed the Producing Managers' Association had no use for Equity's suggestion of arbitration which had been renewed. That was disposed of in a brief letter from Weber regretting that the Association could not appoint a committee to meet a committee from Equity because of Equity's introduction into its Council of men who had proved themselves to be the friends of neither the actor nor the manager, (by which was meant Mountford and Fitzpatrick, who were persona non grata to Albee and hence to those with whom he was now allied); and because the Association had undertaken to work out its own contracts.

THE BATTLE OF THE CENTURY

The warfare was growing increasingly real and bitter but there was still necessary what the diplomats call an overt act—some definite, sharp action which would dramatize the break and call attention to the personal issues involved.

It would have to come from the actors. The managers were willing enough to let things drift. Delay and evasion were allies of whose aid they were only too willing to avail themselves. They were signing up some actors on their contracts, and every signature was a clear gain.

The actors, on the other hand, could not afford to conform to

* *Equity Magazine*, September, 1919, page 3.

these tactics or to allow them to be forced upon them. They had to keep the offensive to stand any chance at all.

The first skirmish was fought on the stage of the Century Theatre, New York. The cast of "Chu Chin Chow" was the stake. This company had been in rehearsal for a couple of weeks and as yet no contracts had been issued to its members. There were only verbal agreements between the players and Comstock and Gest as to salaries—nothing at all had been said as to working conditions.

It was not mere chance or unthinking boldness which had caused those in control of Equity's campaign to settle on this company as a test case. Its producers were both members of the United Managers' Protective Association as well as of the Producing Managers' Association. As members of the former they had been obligated to issue the Standard U.M.P.A.-A.E.A. contracts within the ten day probationary period. This they had failed to do.

While the U.M.P.A. was more or less in the discard Equity reasoned that the contract it had assumed was still in force until superseded by another. At any rate Comstock and Gest had issued no contracts of any sort and they had proclaimed that they did not intend to issue any.

Further than that, "Chu Chin Chow" was still in rehearsal and a shut-down here would be an ample demonstration of Equity's power which, at the same time, would not discomfort others not directly connected with the play.

The Council had resolved to call the company out on July 26, but the move was not made for three days. In Gillmore's story of the strike, written for the Council, Equity's battle of the Century was described in these words:

"The Council gave Mr. Edwin Mordant and me instructions to visit this company, ("Chu Chin Chow"), then rehearsing at the Century Theatre, and call them out.

"I was well acquainted with the Century Theatre, having been a member of the old New Theatre Company. I decided to walk past the hall porter as if I belonged to the house, to reach the stage, address the company and instruct them to leave the building.

"The manager's office is just at the right of the entrance. As I started to go in I noticed Mr. Morris Gest opening the door and

entering the sanctum. I waited a moment, until he had shut himself in, and proceeded with my plan. Mr. Mordant and I got past the hall porter and entered the passage to the right which opened onto the stage. There is another door from the office, however, which opens into the passage.

"After proceeding a few steps up the passage that door opened and Mr. Morris Gest came out. Realizing that he was going to the stage and that it would probably result in a wordy conflict with results that could not be foretold, I turned back, Mr. Mordant following, and we held a council of war outside. We decided to send every member of the company a notification to call at the office and meet the Council."

Only Richie Ling, warned by Gillmore personally, had failed to attend the rehearsal. Gest seized the opportunity to make an impassioned speech in which he pointed out that Comstock and Gest had always operated without a contract and did not intend to begin using one dictated by Equity now. He also spoke of the care given ill or injured members of their companies and urged them to stand by the managers rather than Equity. Marjorie Wood, the leading lady, joined the fight with a vigorous attack on Equity, now that it was affiliated with the American Federation of Labor, and between them no more members of the company left the theatre that afternoon.

Ten of the members of the "Chu Chin Chow" company accepted the invitation of the Council to meet them that night and talk over the situation. After much discussion, and some backing and filling, all but Lionel Braham pledged themselves to remain loyal to the Council's rulings.

Extremely heavy managerial pressure was brought to bear on these players, as it was the desire of the managers to prevent Equity from making any considerable show of strength in this first test. As a result of this pressure five of the members of the "Chu Chin Chow" company reversed their pledges the next day, and followed Marjorie Wood in sending in their resignations. They were Robert Merriman, Clara Burton, Louis La Vie, Thoral Lake and Gladys Earlcott. Albert Howson, and Frederick Kaufman, the stage manager, were also quoted as "defying the walk-out."

Willingly or not, these strikers against the strike were still a part of the organization they had attempted to repudiate. The day before the advance on the Century the Council had ruled that no withdrawals would be accepted in this crisis, and that members who attempted to resign would be disciplined for not keeping their pledges.[2]

Three of the women principals elected to follow the Equity Council and Ling, and so became, with him, the first of Equity's Gold Star Members. They were Lucy Beaumont, Ida Mulle and Clara Verdera.

The general opinion of the newspapers was that in this first tilt the actors had been pretty badly worsted. The places of the four who had left the cast were filled and rehearsals proceeded, though Gest announced that the opening would be delayed, not because of defections from his cast, but because the costumes, which were being sent from London, could not arrive in time.

Although, on the material side, Equity had not achieved what it had hoped to gain, the "Chu Chin Chow" episode was not a total loss. It brought home quickly and effectively to the actors and actresses who were Equity members, the fact that the die had been cast, that there could be no longer any real hope of a successful compromise. It disclosed the fact that the managers were determined to force the issue and were prepared to fight. It was a dash of cold water in the face which awakened the actors and actresses of the country to a realization of the crisis,—not the wet blanket the managers proclaimed it.

Events had moved so quickly in the last three or four days, and the newspapers had given such inaccurate, or biased accounts of what had occurred that the Council decided on a general meeting at which the members might be informed as to just what had taken place, and what was expected of them. The Hotel Astor was selected as the place, August 1 the date, and every effort was made to insure a large attendance. In addition to advertising the meeting through the papers, telegrams were sent to companies in the neighboring territory, and even couriers with packages of handbills were pressed into service.

To the Council and the Officers of the Association, at least, it was quite patent that a strike was inevitable, and that this meeting would have to coalesce the animosities and enthusiasms, the

recollection of past grievances and the hope for future justice into a white heat which would weld all factions of the Association into an effective weapon.

It was equally apparent to them that in a conflict of the magnitude of the impending one a unified command was vitally necessary. The Council instructed Gillmore and Stewart to confer with the veterans Mountford and Fitzpatrick, and also with W. H. Donaldson, Publisher of the *Billboard,* whose friendship for Equity had been increasingly apparent.

Each of these men gave it as his opinion that Gillmore was the man for the place. Donaldson made a further contribution to the campaign. He said: "You will need a good press representative through all this."

"Would you allow Gordon Whyte, (at that time a member of the *Billboard's* staff), to help us in that capacity?" he was asked.

"Equity can have Mr. Whyte's services or anything else from the *Billboard* that it wants," was Donaldson's reply. Henceforth, for the duration of the emergency, Equity had an experienced and able press representative at its command.

During the absence of Gillmore and Stewart the Council had canvassed the situation among the members present and they, too, were unanimously of the opinion that Gillmore was the man.

A night or two later Gillmore was consulting with Hugh Frayne. He explained, with some diffidence, that he had neither the experience nor, perhaps, the ability to act as Equity's commander-in-chief in a crisis of these proportions.

"Should I," he said finally, "ask the Council to appoint some one else to the post?"

The veteran labor leader paced the floor, hands behind his back. Suddenly he stopped, turned and pointed his finger at Gillmore. "You're the man for the place," he announced. "You've got to go through with it."

From that moment Gillmore was the outstanding figure in the struggle.

While the actors went forward with their preparations for warfare and were appointing a supreme commander-in-chief, the managers were undertaking somewhat similar arrangements. They held a meeting at the Astor on the afternoon of July 31 at

which it was announced that practically every manager of importance was either present or represented.

There had been a desperate attempt to round up all of the managers not yet affiliated with the Producing Managers' Association, so that the managers might present an unbroken front to the actors' advances. The success of this membership drive gave the managers much elation. They announced that the new members included Charles B. Dillingham, Florenz Ziegfeld, Jr., Abraham Levy, George Tyler, Lyle D. Andrews, Harrison Grey Fiske, and E. J. McGregor.

They also tried hard to follow Equity's lead in selecting a supreme commander. But one of the serious weaknesses of the Producing Managers' Association throughout its entire existence was the inability of its members to sink their divergent interests, forget their feuds and jealousies, and fuse their considerable resources for a common effort. Even in this crisis they were unable to give entire authority to any one of their number.

"An emergency committee to devise means to protect both the actor and the manager in the present complications" was appointed. It consisted of William A. Brady, Lee Shubert, Marc Klaw, George M. Cohan, Arthur Hopkins, John Golden, Henry W. Savage, Morris Gest and Arthur Hammerstein. There was no chairman, even, of this committee, but Arthur Hopkins gradually came forward until he practically occupied that rôle.

This meeting announced that the managers had received word that Mr. and Mrs. Charles Coburn had resigned from the Actors' Equity Association, and that the new actors' association, known tentatively at that time as the Actors' Coöperative Association, had received the applications of fully 160 of the leading players of the country, many of whom had already resigned from Equity to apply for that membership.

A resolution endorsing the stand of Comstock and Gest in refusing to issue contracts or to deal with Equity went through without a dissenting vote.[3] Altogether this was the managers' day.

But the next day was something else.

Into the same room in which the managers had conferred crowded 1,500 Equity members, meeting for the first time as a branch of the Associated Actors and Artistes of America.

Nearly all the managers who had casts had called rehearsals for the time of the meeting, but most of the casts were right there at their own meeting in spite of them.

The real business of the day was the passage of two resolutions the gist of the more important of which left with the Council the right to make any alliances and come to any agreements with other theatrical labor unions which might seem advisable.

For a moment after the reading of those resolutions the meeting held its breath. Everybody present recognized the implications in the powers conferred upon the Council. The meeting was in that moment of indecision and uncertainty when anything could happen. Grant Stewart jumped to his feet, got the eye of the President:

"The Producing Managers' Association has deliberately forced this war upon the Actors' Equity Association with the sole intent of destroying this organization," he declared. "The actors may lose this fight, but they can win it. I am so absolutely convinced they will win it that I beg to second those resolutions with all my heart and soul."

In those few words the spirit of the meeting had become fused and set in one purpose. The resolutions went through without a dissenting voice. The actors were on their way to the cross roads of the strike.

A FINAL FLAG OF TRUCE

Through scouts and runners the managers had kept in touch with what was happening at this meeting and elsewhere in Equity's camp. They could not, then, have been very surprised at the contents of the note Gillmore dispatched after the meeting in which, rehearsing Equity's desire to remain friendly, he pointed out that a continued refusal on the managers' part would drive Equity into alliances in which it might not retain complete independence and asked for another conference.

For a little while it did seem that that note might have the desired effect. Although the managers kept up a flow of propaganda regarding resignations from Equity, and the swing towards the Actors' Coöperative Association, an appointment was made by which an Equity Committee was to meet Harris in the latter's office on Monday afternoon, August 4.

For a year or more the managers had been protesting with increasing vigor against the part played by Wilson in the management of Equity's negotiations. Recently his presence had been cited as one reason why the P.M.A. was declining to do business with Equity. To satisfy this objection and give the managers an opportunity to prove whether or not this was a valid reason, Wilson was not one of those who went to call on Harris. Three officers, McRae, Gillmore and Stewart, and Cope, a prominent Councillor, composed the committee.

Rather to the surprise of this delegation they found, in addition to Harris and Brady, Kyle, Hopper and Tynan, the latter three Equity members.

Possibly they had been invited there by the managers in the hope that, not representing either the Officers nor the Council, they might repudiate the policies of the Association and help to create discord.

If that was the case, in the choice of Tynan and Hopper the managers had shown poor judgment. Both spoke earnestly and effectively in support of Equity's policies.

With Kyle, though, it was a different matter. Ever since the previous Friday the Council had known through the activities of its secret service squad that the recruiting for the Actors' Co-operative Association was being handled by Kyle and Coburn.* And only that morning, speaking through the columns of the *Morning Telegraph* Kyle had inspired the statement that:

"Unless the few leaders now in control of the Equity tender their resignations without delay, the majority of the leading actors and actresses who compose its membership are prepared to institute proceedings which will separate them from their posts with neatness and dispatch." He also said that he had not withdrawn from Equity for the reason that he had not lost hope of ousting these officials from the society.†

As soon as Kyle was drawn into the discussion it was evident that he had gone over to the managers horse, foot, and artillery. Equity was under no illusions as to where he stood after that discussion.

Principally the managers spoke bitterly of Wilson's eligibility

* Equity Council Minutes, August 1, 1919.
† *New York Morning Telegraph,* August 4, 1919.

to serve as Equity's leader, and the impossibility of arranging a settlement without his elimination. This, of course, Equity declined to consider.

Still and all, stormy as parts of the meeting had been, it was encouraging that the managers were still willing to talk of talking to Equity, and were willing to agree to a further conference on Wednesday, the sixth, at the same place.

BUT MR. ALBEE DECIDES FOR WAR

But the next morning, Tuesday, August 5, E. F. Albee returned to town. He was horrified to learn that the Producing Managers' Association was seriously considering making peace with Equity.

Summoning Sam Harris and the Shuberts into conference Albee assured them that it had been a great mistake ever to meet the Equity delegation at all—a mistake which must not be allowed to happen again. If they followed his plans, he said, they could not fail to win; but having denounced Equity and denied it recognition they could not afford to confer with its representatives.

Then Albee unfolded a scheme which called for the amalgamation of all the managerial forces, legitimate, vaudeville, burlesque and motion pictures, into one organization which could control all avenues of employment and quickly end the war.

To the Shuberts, individually, Albee promised as many headliners from vaudeville as might be necessary to keep their revues running.* They were not forthcoming, however, and the failure to keep this campaign pledge may have been one of the factors which later prompted the Shubert invasion of the vaudeville field.

Albee made good on his promise to get all the managers together. On Wednesday, August 6, there gathered the most powerful group of managers that had ever come together for the purpose of crushing an actors' association.

Beside the members of the Producing Managers' Association there were present representatives of the Vaudeville Managers' Protective Association, the National Association of the Motion Picture Industry, which included both the producers and distributors, and the Columbia Amusement and Burlesque Interests of America.

* *Billboard, Special Supplement No. 2,* August 16, 1919.

The component parts were nation wide in scope so that actors striking against the legitimate managers in New York could not hop to vaudeville in Chicago, burlesque in St. Louis or motion pictures in Los Angeles.

It was not precisely a new idea that the managers were trying. Three years before, when Equity had first begun to negotiate seriously with the White Rats, the United Managers' Protective Association had formed a similar alliance with vaudeville and pictures.[4] But a little later the legitimate producers became afraid of the motion picture producers and instituted a blacklist of stars who went from the stage to the screen. Naturally, under the circumstances, the alliance did not last very long or mean very much, but the managers had not cared, anyway, for Equity had not put through its affiliation with Labor. Now that this latter was an accomplished fact, here was the alliance of producing interests again. The purpose of the meeting was clear from the resolution it adopted:

"Resolved, That it is the sense of this meeting that this association is prepared to affiliate with a national organization of producing managers of the legitimate theatre, vaudeville theatres, burlesque theatres and producers and distributors of motion pictures, to the end that such an association will aid in protecting the actors of the stage and screen from inequitable and unfair contracts and assure to the employers thereof a continuance of the privilege to deal with them individually as artists." *

AND WAR IS DECLARED

The fruits of this meeting were soon in evidence. That afternoon when the Equity committee called at the office of Cohan and Harris to resume the discussions where they had been dropped on Monday afternoon, there was no committee of managers to talk to.

Only Harris himself was there, and in the light of Albee's admonitions he was decidedly embarrassed to have been found at home.

He swung about in his swivel chair, presenting his back to his visitors. His arms were in the air above his head.

* *New York Morning Telegraph*, August 7, 1919.

"I won't speak to you," declared the agitated Harris, "I won't have anything to do with you. Go away!" Rebuffed in such fashion the Equity committee could do nothing but retire.

Equity had come to the end of its peaceful resources. It was faced by the strongest combination of managers in the history of the theatre, who, banded together in the tightest of organizations, insisted that to their united might the actors must answer as individuals: a troop of Goliaths demanding that David hand over that sling!

So ended the series of negotiations, compromises, arbitrations and conferences which had stretched over nearly six long, weary years.

The producing managers, unable or unwilling to justify their actions by reason, had appealed to force. From that appeal Equity had no recourse but to reply with greater force or go under—as had so many other similar actors' organizations before it.

Chapter VII

WAR

Prior to the Equity general meeting, at which the strike was voted, the Council assembled at Headquarters. About half-past one E. H. Sothern rushed into the room in very great excitement. Now, although Sothern had been a member of the Council for more than two years he had never, previous to this visit, attended a meeting of that body. At this last minute of the eleventh hour he made use of his membership in the Council to appear before it and to attempt by his eloquence and influence to dam the rising tide of strike sentiment.

The Council pointed out to Sothern that he had small acquaintance with the condition of affairs, but he insisted that Lee Shubert had assured him that the managers were perfectly willing to come to an agreement, even now.

It did not seem probable that the managers would back down at the last minute, but the Council felt that Equity could not afford to neglect any opportunity which promised to settle the difference without a fight, and Gillmore drew up a memorandum covering the conditions considered requisite by Equity. Sothern was assured that if he could get Shubert to sign that note, and he came with it to the General Meeting, all talk of strike would be abandoned.

The Grand Ball Room of the Hotel Astor was jammed. The Officers and Council received an ovation when they took their places upon the platform. The keynote of all speeches was: "The time for words has passed—the time for action has come." The support of Organized Labor was promised by Hugh Frayne. Joseph N. Weber, President of the American Federation of Musicians, promised the absolute support of his organization, and was received with tumultuous applause.

And then, for the second time that day, Sothern attempted to block the march of events. As he strode down the aisle he was greeted with applause, which continued as he mounted the stage and asked permission to address the audience.

The applause died down, and was succeeded by a ghastly silence as Sothern began, for with his first words it was apparent that he was arguing for delay and submission. It was a critical moment, for Sothern was still a name with which to conjure, and dissension at this meeting would be disastrous. Wilson's gavel clicked on the table, and Sothern was informed that he was out of order, but that he might speak when the business for which the meeting had been called had been transacted. He sat down.

By this maneuver a very dangerous threat to the tone of the meeting was sidetracked until other speakers had recaptured the enthusiasm of the members and had nullified the impression Sothern had made. Then he was invited to state his case.

With his face set and white, asserting that it required all his courage to continue in the face of such opposition Sothern addressed himself to the task of persuading the meeting to adopt a course equivalent to practical surrender to the managers. He asked for time to reopen negotiations and reiterated that the latter had promised to meet any committee of actors which did not include Francis Wilson and Frank Gillmore.

The meeting was seething with indignation. Sothern had held a high place in the affections of the actors, but his advocacy of surrender changed the cheers to hisses, and open cries of disapproval and anger, until Wilson was forced to intervene and remind his hearers of the courtesy due the speaker.

As Sothern finished, Wilson held up his hand for silence. "Do you want to debate with the managers, with me absent?" he asked.

"No!" roared the meeting.

Nevertheless the motion as proposed by Sothern was placed before the meeting and was buried under a torrent of "Noes." Sothern angry, hurt and humiliated by his reception, left the hall promising to try again to get in touch with the managers to whom he had spoken earlier in the day, and to persuade them to accept the terms of Gillmore's memorandum. He was informed that, regardless of the action of the meeting, no action would be taken by the Council until he had had time to interview these managers. The time limit for this truce was set at seven o'clock that evening.*

The strike resolution now offered read:

* *Billboard,* August 16, 1919.

"WHEREAS, In all contracts previously entered into between managers and actors, the Actors' Equity Association was recognized by the managers as the representative of the actors to be dealt with on behalf of the actors in all matters arising under such contracts; and

"WHEREAS, The managers who are members of the Producing Managers' Association now definitely declare that they no longer recognize the Actors' Equity Association, and will not deal with it, and will not arbitrate with it the differences which have arisen between the manager and actor; and

"WHEREAS, By so doing said members of Producing Managers' Association have both broken and repudiated existing contracts between the managers and the actors; and

"WHEREAS, Many other equitable and moral reasons exist for this agreement; be it

"RESOLVED, That we severally agree, each with the other, that until the Actors' Equity Association is recognized as the representative of the actor, and until a satisfactory arrangement is made with it governing the working conditions of the actor, we will not perform any service for any manager who is a member of the Producing Managers' Association, or who refuses to recognize our Association, or to issue its contracts, either in plays now being presented, or in plays which are now, or may hereafter be rehearsed." *

This resolution was passed without the raising of one dissenting voice, and with every evidence of enthusiasm and confidence.

The members of those companies against which action had been planned were ordered to wait after the meeting for definite instructions as to procedure. Members of companies in rehearsal were told to report to Strike Headquarters, two floors of a restaurant at 160 West 45th Street, the next morning, and the remainder of the meeting was dismissed.

The original plans had contemplated no action against musical comedies. Because the organization of those companies had not been brought to the same high pitch which had been attained in the dramatic field, and because replacements could be more readily secured from vaudeville, it had not been considered the part of wisdom to attempt pulling them out also.

But when the members of the seven dramatic companies had been given their instructions, and had departed in cheers, deputations from the musical comedy units waited upon the Executive

* Frank Gillmore's Notes on the Strike.

Secretary with an appeal to be allowed to walk out, too. In one group there were only four members of the company, but they contended so stoutly that they would be able to hold up the performance that they were taken at their word, and instructed to report to Strike Headquarters at seven with the other companies.

Nevertheless, because those in charge of the situation for Equity were so uncertain as to the extent to which they could count on the support of the musical comedy members, and with the actions of the "Chu Chin Chow" company in mind, newspaper men inquiring as to how many companies were expected to walk out that night were informed "about seven."

The meeting lasted until six o'clock, and so the interval of waiting was mercifully short. The Officers and Council convened at Equity Headquarters to wait for word from Sothern.

Seven o'clock, the deadline of the truce offered Sothern, came and went without word from him. A block away a group of managers among whom were Sam H. Harris, William A. Brady, Arthur Hopkins, Arthur Hammerstein, L. Lawrence Weber, John L. Golden and Edgar Selwyn, were similarly awaiting him, for they had heard that he had agreed to bring to them the actors' ultimatum. But Sothern, evidently convinced by this time that a strike was inevitable, failed to report to either group.

When fifteen minutes more had crawled by, Gillmore took the receiver from the hook of the telephone, and briefly instructed Strike Headquarters that every company previously notified was to go out. The strike was officially on.

"LIGHTNIN'" STRIKES

But the tension was not lessened by the giving of that order. Not until the companies actually walked out would it be possible to estimate how effective it had been.

A perfect dramatic pitch was attained by the first report from Strike Headquarters. At 8:20 the anxious Officers and Councillors at Equity Headquarters heard that "Lightnin'" had struck.

There was more than ordinary drama in this announcement. For Frank Bacon, after nearly a score of years in stock companies and on the road had just landed his first success on Broadway. In the proceeds of this success he was sharing as author, star,

and part owner. A break with the managers at this stage of the game meant that if the actors failed Bacon would lose everything he had worked so hard to achieve, and might be condemned to return to that oblivion from which he had won so hardly.

But Bacon was also a Councillor of the Actors' Equity Association, and had been for years one of its most earnest and effective workers. Before everything else he reckoned himself an actor, and felt that the actors' cause was his cause. Without hesitation he ordered his company out, and the Gaiety Theatre was dark for the first time in more than a year.

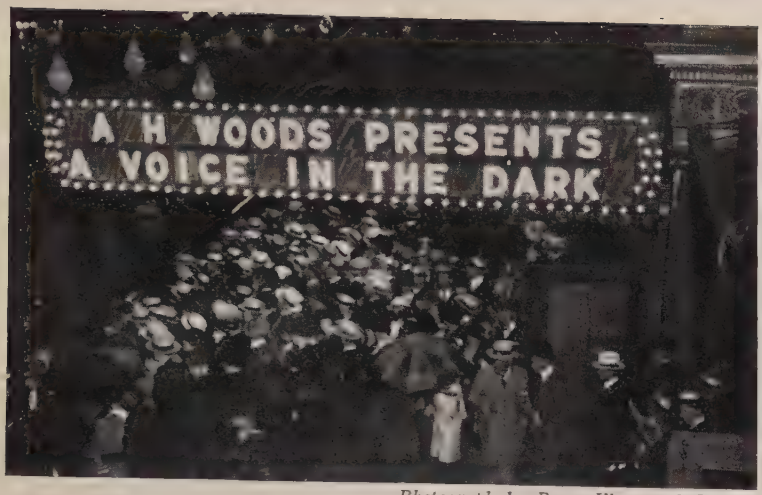
A somewhat similar situation was present in the case of "The Challenge" in which Holbrook Blinn had just opened at the Selwyn Theatre. Blinn, too, owned a piece in the production, though he had been a prominent player for some time and was not faced with oblivion as was Frank Bacon.

The flash from "Lightnin'" was followed in quick succession by twelve similar reports from other houses. In their first coup the actors had scored almost a one hundred per cent success. Only one partial failure marred their initial move.

In addition to "Lightnin'" at the Gaiety, "Oh, What a Girl" at the Shubert; "At 9:45," the Playhouse; "Gaieties of 1919," Forty-fourth Street; "The Five Million," Lyric; "The Crimson Alibi," Broadhurst; "East is West," Astor; "Nightie Night" (opening night), Princess; "A Voice in the Dark," Republic; "The Challenge," Selwyn; "A Royal Vagabond," Cohan and Harris, and "Listen Lester" at the Knickerbocker Theatre were closed down. At the Booth Theatre where Charles D. Coburn was presenting "The Better 'Ole," a performance of sorts was given with the aid of several members of a second company which was in rehearsal. Altogether, the actors had scored heavily in this trial of strength.[1]

Although the managers by their refusal to recognize Equity, had made war inevitable, they were, apparently, caught napping by its sudden declaration. At any rate no adequate preparations had been made for carrying on in the face of a strike, and in several instances managers of productions which later reopened were forced to inform their audiences that night that they would have to reclaim their money at the box offices.

Long queues seeking their refunds at half the first class theatres



Photograph by Press Illustrated Service.

The crowd before the Republic Theatre, New York, which was closed by a walkout of the members of the company.

Photograph by International Newsreel.

A group of the prettiest strikers in history all set for an automobile invasion of Wall Street on behalf of Equity. The girl behind the "Q," Fay Tunis, and the one behind the "T," Edith Hallor, were rivals for the Vice Presidency of the Chorus Equity Association at its organization, with Miss Hallor winning.

in the White Light District were among the unusual sights afforded the casual stroller on Broadway this night. And there were other complications calculated to make the life of a manager an unhappy thing. Few of the box offices were prepared for an emergency of such proportions, and at several houses the patrons had to be put off until money could be secured from the bank.

In other instances some of the cash customers had lost their seat coupons, which contained the only proof of the amount to which they were entitled. Then there remained the problem of those who had bought from the speculators. The theatres explained that refunds would have to be made at the point of purchase, and there was a wild scramble to get to those offices before they closed for the night. Many of the brokers and speculators had already closed, however, and some of those who had not had already made their deposits and could not meet these demands. Their situation was further complicated by the fact that for certain popular successes they had charged anywhere up to eight or nine dollars more than the original cost of the ticket, which difference, of course, did not show on its face. One frank speculator who was asked how he determined the amount to be returned admitted: "Oh, I guess at it!" *

Broadway was jammed with a curious throng which milled aimlessly about looking for entertainment. Those theatres which were open did a capacity business, and this was true also of motion picture and vaudeville theatres.

For many others the drama of the strike was even more interesting than that on view within doors. Already volunteers had established themselves before certain theatres and were explaining Equity's cause to audiences whose interest and enthusiasm were, perhaps, enhanced by the fact that this was a free performance.

At the Forty-Fourth Street Theatre, for instance, where the Shuberts' "Gaieties of 1919" had been playing, Ed. Wynn addressed a crowd which was so carried away with his words that it hoisted him on its collective shoulders and paraded up Broadway.

Another crowd collected on Forty-First Street, behind the New Amsterdam Theatre, where the "Ziegfeld Follies" was at work.

* *New York Times*, August 8, 1919.

There John Charles Thomas and Cyril Chadwick had persuaded Eddie Cantor, Eddie Dowling and Phil Dwyer to walk out, and the chorus had congregated on the fire escapes to watch the street show. Others would, undoubtedly, have joined them had not Ziegfeld explained to Ray and Johnny Dooley that he was not a member of the Producing Managers' Association. On the strength of that assertion Cantor returned for the second act and was joined by Dowling and Dwyer the next night.

For this same reason, Charles B. Dillingham's "She's a Good Fellow" at the Globe Theatre was not disturbed on the first night.

When the storm had subsided and the managers began to emerge from their cyclone cellars, their attitude was one of hurt surprise that the actors had actually gone through with their threat to strike.

"I didn't think the boys would go so far," was Sam Harris's comment; and he voiced a sentiment to which other managers gave general approval when he added: "We're going to open again, but we'll take our own time about it";* while David Belasco uttered the threat in forthright manner, declaring that if necessary they would "Starve the actors out."

This was the situation then at the outbreak of the greatest struggle in the history of the stage. On one side was arrayed the entire managerial strength of the theatre, legitimate, vaudeville, motion picture and burlesque, united in one organization with almost illimitible resources in money and access to the sources of public information. It could afford, much better than the actors, a temporary shutdown of business.

The Actors' Equity Association had at that time a paper membership of two thousand seven hundred members, but it did not know how many would remain loyal under fire, or how far they would go. It was, to a large extent, unprepared for a death struggle, and was comparatively unorganized. Further than that, in money, the sinews of war, it was insufficiently equipped. There was in its treasury just $13,500.

To balance those apparent discrepancies the long years of injustices and oppressions which they had suffered at the hands of the managers, had united the actors to a degree undreamed of by their opponents. The actors realized that if they failed to pull off

* *New York Tribune*, August 8, 1919.

a victory at this time they were facing a period of virtual slavery, with practical retirement from the stage as the price of failure for many.

The managers, on the other hand, beneath the mantle of the single organization which covered them all, were torn with dissensions and jealousies. There were some who literally would have preferred all to lose the fight rather than to permit a rival to profit more than they in its winning. Nor, because of this feeling, would they submit to a unified command, or follow suggestions, much less orders, from the committee designated to handle the situation.

And, greatest asset of all in a struggle of this nature, popular opinion was on the side of the actor. The public had a shrewd intuition that the actors had been goaded to these desperate tactics by unfair dealings over a long time; and in general regarded the actor as a much more gallant and heroic figure than the manager.

Nor was that the only cloud under which the managers labored. The public, too, had learned to expect bad treatment at their hands. The public had been galled by insolence and corruption at box offices, a condition which the managers apparently made no serious attempt to correct. And the public had suffered from the sedulously misleading statements which had emanated from managerial offices. It had gone to see productions billed "With the original New York cast," only to find that not one member of that cast was playing. The actors had not been responsible for such announcements—the managers had. Those things counted when conflicting statements had to be weighed, and they counted almost entirely in favor of the actor.

In the first pitched battle of the campaign the actors had won a decisive victory.

THE MANAGERS EXPLAIN EVERYTHING

During the night the managers rallied and, with a liberal draft on their exchequer, bought whole pages in all the principal papers of New York City in which they recited their version of the formation of the Producing Managers' Association, its relations with the Actors' Equity Association, and the events

which had led to the break. Referring to the negotiations between the contract committees of the two Associations, the managerial statement declared:

"It was suggested that the actors' committee confer again on their contract and submit to the managers a tentative draft.

"This draft was delivered by Secretary Frank Gillmore to Mr. Henry W. Savage, May 19, but lo! it was not tentative. It was final and all the Equity would agree to, Mr. Gillmore informed Mr. Savage. Mr. Savage asked Mr. Gillmore if the Equity would resort to the 'closed shop' if the managers did not accept the contract. Mr. Gillmore said the Equity would be obliged to resort to extreme measures and intimated that the 'closed shop' might be among them.

"Mr. Savage reported his conversation with Mr. Gillmore to a meeting of the Producing Managers' Association and submitted the Equity final contract. The managers thereupon decided that adjustment with the Equity Association seemed rather hopeless and decided to formulate a contract of its own as nearly as possible approximating the Actors' Equity contract then in use.

"Fast following came all the acts of the Equity Association that removed it forever from the plane where the managers could deal with it; alignments with notorious destroyers of good will and peace; public vilification of managers; pernicious and untrue propaganda—a complete demoralization of all that it had taken years to build up.

"And in the face of all this many actors were honestly wondering why the managers refused to meet with a committee of the Actors' Equity Association.

"As a last effort for peace several managers, unknown to their Association, agreed to meet several actors and discuss conditions with a hope of arriving at a conclusion. The several actors appeared last Monday and announced themselves as a committee of the Actors' Equity Association with power to act. They were informed that the meeting was informal; that the managers present did not represent the Producing Managers' Association and that they did not regard the actors present as representing the Equity Association. With this discussion began, and for a time at least there seemed a possibility of getting somewhere. At the

end of the meeting every person gave his solemn promise that no mention of any kind of the meeting should be given out.

"Thirty minutes later information of the meeting was given out to the press at Actors' Equity headquarters, and word spread broadcast that the managers were weakening.

"When the keepers of vows" (a delightful phrase indicative of deep moral indignation), "arrived at the second meeting, which was to have been held Wednesday, they found one manager present, he to receive their last word, and the rest by their absence to testify that conferences with committees of the Equity Association were time spent thumb-catching.

"And now the theatre has gone down into the valley of venom, and we are called upon to hate those we have grown up with, despite those who have befriended us, and whoever wins we all must lose." *

That was all of the managers' side. Not one word in it to explain why they, as an Association, had failed to issue the form of contract accepted by them in October, 1917; no reference to their refusal to accept Messrs. Taft and Hughes as arbitrators; nothing said of their absolute denial of the right of the Actors' Equity Association to represent its members in their negotiations with the managers; not a hint of the coalition of legitimate, vaudeville, motion picture and burlesque interests to "Starve Out the Actor"—only a hurt wonder that "The Boys had gone so far."

The actors, too, had been busy during the night. A temporary organization had been effected, which began to function early the next morning. Committees were organized to handle the influx of applications for membership in Equity, campaign funds, pickets, publicity and the other multitudinous needs of a sudden and coördinated effort.

In a frantic attempt to regain some of the ground lost the night before, the managers placed rush orders with Chamberlain Brown and other theatrical agents for players to reopen the shows closed by the walkouts. Many a player who had found the going in managerial offices none too easy, and had learned to expect scant courtesy from even the office boys, now found himself the object of flattering advances from producers themselves.

* *New York Morning Telegraph,* August 8, 1919.

The story of Bing Cushman is, perhaps, typical of what was happening in many offices that day. As written for the *Boston Post* by Neal R. O'Hara:

"Cushman . . . after ten years in the sticks of the Middle West, was offered the lead in a Broadway hit and the chance to be featured when the show opened in Chicago if he would step into the cast and keep the show running in spite of the strike. Cushman stuck, however, as scores of other actors have done, and the show closed. The bait for small timers to step into Broadway productions and cinch their careers from now on is strong stuff, but the strikers are playing square." *

Every effort was made by those managers who succeeded in persuading any actors to sign up, to get signatures to copper riveted, non-strike contracts. But if the contracts were strike proof the actors were not; and a full cast did not always insure a production.

The efforts of these managers to secure substitutes for the strikers were further complicated by the receipt of a cablegram at Equity Headquarters in which Alfred Lugg, General Secretary of the Actors' Association of Great Britain, declared:

"We hereby instruct our members to act in harmony with yours." †

This was a real accession for it was estimated that there were about a thousand members of the Actors' Association in the United States, who were, of course, potential strikebreakers. This menace was now averted, and members of the Actors' Association of Great Britain served diligently and effectively with Equity throughout the course of the strike.

It was to be expected that after the failure of E. H. Sothern to convert the strike meeting to his point of view he would prefer not to retain his membership in Equity. And promptly with the calling of the strike Sothern offered his resignation. In his letter Sothern said:

"I have resigned from the Actors' Equity Society. In my capacity as actor I have tried to mediate in preventing the strike—in my capacity as manager, which I have been for thirty-five years, I have signed contracts with twenty-one theatres for next season and cannot break these contracts.

* *Boston Post,* August 10, 1919.
† *New York Call,* August 8, 1919.

"The proposition I was empowered to make to the Actors' Equity Association mass meeting that the Association should meet the managers in conference, was voted down, or I believe an understanding could have been arrived at—under the circumstances I feel compelled to resign as I am not in accord with this procedure." *

To balance this resignation from Sothern, Lionel and John Barrymore had written:

"We are in full accord with the action of the Actors' Equity Association and we will not go in any production unless every principal part in it is filled by a member of the Association." †

James O'Neill had wired to President Francis Wilson at Headquarters:

"I am with you and your Association with all my heart. Success to your efforts."

THE MOVIES WALK OUT ON THE PRODUCERS

As soon as the evening papers appeared it became evident that the motion picture industry was not as complacent toward the union with the legitimate, vaudeville, and burlesque managers for the purpose of crushing Equity as its president, William A. Brady, who had helped to engineer the alliance, had hoped it would be.

The papers carried the resignation of William L. Sherrill, President of the Frohman Amusement Corporation, from the National Association of the Motion Picture Industry. In his letter to Brady, Sherrill said:

"I feel that the National Association (of the Motion Picture Industry), committed a grievous error in taking sides in support of the Theatrical Managers' Association, in the present difference that exists between that organization and the Actors' Equity Association. I feel that the policy of the National Association should have been to keep its hands off, and if through any train of events it was brought into the present labor difficulty, that its support might more properly have been given to the Actors' Equity Association rather than to the legitimate managers' organization,

* *New York Tribune*, August 9, 1919.
† *New York Globe*, August 8, 1919.

which heretofore has steadfastly pursued a policy opposed to the best interests of the Motion Picture Industry." * [2]

Nevertheless, this action was so distasteful to the motion picture industry as a whole that during the strike the legitimate managers received only moral support from their motion picture confreres, and not too much of that.

THE THREAT OF "THE LAW"

The managers held three meetings during the afternoon and evening. The most important of these was held at the Hotel Astor. Here the managers pledged themselves to raise a strike fund of one million dollars, to be contributed in amounts of twenty-five and fifty thousand dollars each. In addition many sums in excess of this were pledged just as carelessly. There is no public record as to how much of the money thus pledged was actually raised, but it was a magnificent gesture, in decided contrast to the thirteen thousand five hundred dollars in the actors' war chest, at the time.

The conclusion of this meeting produced the first official statement of the strike from the Producing Managers' Association. It was signed by Sam H. Harris and was designed for appearance in the morning papers of the next day. It read:

"At a meeting of the Producing Managers' Association, held yesterday (the eighth), afternoon at the Hotel Astor, it was agreed to continue performances in all the theatres wherever possible, and to fill all vacancies in the companies with actors engaged to replace those who walked out on Thursday Evening.

"A resolution was unanimously adopted in which it was clearly stated that the Producing Managers' Association goes on record as not being in any sense opposed to organized labor.

"Bainbridge Colby, counsel for the Producing Managers' Association, was instructed to bring suit against the Actors' Equity Association and all actors who are under contract to the Managers and who went out on strike, thereby disregarding their written agreement as contained in those contracts.

"A point was made that almost in every instance where an actor refuses to play the engagement had been made with him under

* *New York Evening Sun*, August 8, 1919.

an actor's equity contract, signed by him and the manager prior to the time that the present difficulties arose.

"The managers aver that such action on the part of the actors who had already signed contracts clearly indicates that a state of irresponsibility exists at the present time which would endanger any future contract made with the Actors' Equity Association.

"It was pointed out further that if the reverse of the proposition had occurred—that is to say if the manager has refused to allow the actors to appear, with whom they had already signed contracts—the managers would be held legally responsible for the breaking of such contracts and would be forced to pay.

"The Association unanimously decided to guarantee future engagements to all actors who remain loyal to their employers during the present difficulty. In this decision they were offered the support of the vaudeville managers." *

This last assertion was immediately confirmed at the United Booking Office, which, in answer to inquiries, declared that: "Any production manager wishing vaudeville actors or vaudeville acts need only advise us. We will get the actors and the acts for him." No neutrality or hands off attitude there.

The attempt to draw the line against recognition of Equity without offending Organized Labor, made in this statement, was often repeated by the managers. They did not wish to recognize Equity: they could not afford to repudiate Labor with which all their musicians and stage crews were affiliated.

Nevertheless the Producing Managers' Association could not escape the deadly parallel between its statements of August 8, when it said: "The Producing Managers' Association goes on record as not being in any sense opposed to organized labor," and the statement issued by the combined legitimate, vaudeville, motion picture and burlesque managers on August 6, which declared:

"Such an association will . . . assure to the employers (of the actors), a continuance of the privilege to deal with them individually as artists."

No opposition to Organized Labor—but the actors must treat with their managers as individuals.

Undoubtedly the biggest gun in the managers' statement was

* *New York American*, August 8, 1919.

the announcement that they had instructed their counsel, Bainbridge Colby, later Secretary of State of the United States, to: "Bring suit against the Actors' Equity Association, and all actors who are under contract to the managers, and who went out on strike . . ." This was a point on which the managers hoped to score heavily. In anticipation of just such a contingency most of the managers had taken care to sign those actors whose services were considered essential to the productions in prospect on *Equity contracts.* They counted on being able to hold these people in line whether or not they wished and despite what might happen, since they were signed on the Equity form.

THE IMPORTANCE OF CLAUSE 18

There was just one loophole, in this argument; but Equity was aware of it and instantly seized the advantage. To Paul Dullzell, at that time a recent acquisition to the Council, was due the credit for the discovery.

Some time before the outbreak of the strike Dullzell had taken home a copy of the U.M.P.A.-A.E.A. Standard Contract and had subjected it to intensive study, clause by clause. Somewhere in it, he was sure, there was legal as well as moral justification for Equity's action. He found it in Clause 18, which read:

"Arbitration: 18. In the event any dispute shall arise between the parties (1) as to any matter or thing covered by this contract, (2) as to the meaning of the contract or its application to any state of facts which may arise, then said dispute or claim shall be arbitrated. The manager shall choose one arbitrator and the Actors' Equity Association the second. If within three days these arbitrators shall not be able to agree then within that time they shall choose a third who shall not in any way be connected with the Theatrical Profession."

The kernel of this clause was that the Actors' Equity Association was recognized as a party to the contract. And the managers on more than one occasion had specifically refused to recognize Equity as the representative of the actor.

The Producing Managers' Association by that refusal and by declining to submit that question to arbitration when requested to do so by Equity, repeatedly had breached this clause long before

any actor had walked out of a cast. The keenest legal minds of the country, upon consideration of the evidence, upheld Equity's contentions on that point.

The cornerstone of the managers' case proved to be the cornice of a building in the next block.

The retort of the actors to this threat of a suit was immediate and much more efficacious. Orders went out from Headquarters that all companies in rehearsal for members of the Producing Managers' Association should walk out, and report to Strike Headquarters. About thirty companies were affected by this order, which was generally obeyed.[3]

THE MANAGERS GAIN GROUND

The managers bent every effort towards opening some of the plays closed the night before. By dint of combing the agencies, promoting understudies, and drafting managers and authors, three houses reopened their doors.

Perhaps the reopening which caused the greatest bitterness was "The Challenge" at the Selwyn Theatre. This had been closed the night before when Holbrook Blinn, its star, had walked out. As late as six-thirty the next day (Friday), Blinn was still receiving congratulations on his stand. At that time in The Lambs he shook hands with Jefferson de Angelis, Echlin Gayer, Paul Dullzell, and others, and gave them his word of honor that he would stick with the Actors' Equity Association.

Two hours later he was back in his part announcing that since he had purchased an interest in the play he stood in the position of proprietor of the production as well as actor in it.

Blinn claimed that members of the Actors' Equity Association had informed him that they appreciated his position, in that he was "Morally and legally bound to stand behind his contractual obligations."

" 'My sympathies,' Mr. Blinn continued to a *Tribune* reporter, 'are entirely with the actors. I hope they win. I want it distinctly understood that I am playing in "The Challenge" because I am legally bound to do so. My position at this time is not that of the actor, but of the manager. Had I only myself to consider not

even my managerial interest could persuade me to remain at the head of this cast as long as this trouble continues.' " *

The next day he followed this action with his resignation from the Actors' Equity Association.

George M. Cohan himself stepped in to the cast of "The Royal Vagabond" at the Cohan and Harris Theater, and with the assistance of his producer, Sam Forrest, and the promotion of seven men and women from the chorus he managed to give a show.

At the Forty-Fourth Street Theatre, where "The Gaieties of 1919" had been playing, a vaudeville bill was thrown together which was nothing like the production disrupted by the strike, but was offered to the public under its name, and at the same price.

Further ground was gained by the managers when "Chu Chin Chow," focal point of the battle the week before, now held its première with twenty-five detectives scattered through the audience in anticipation of trouble. Up to the very last minute before the ringing up of the curtain its opening had been in question, for groups of Equity pickets had tried to persuade the members of the cast to stage an eleventh hour walkout. Particularly the pickets centered their attention upon Lionel Braham, but he, and those who had resisted the Equity Council's original order, still held fast. "Chu Chin Chow" opened on schedule.

THE FIRST PICKETING

For the first time picketing on a grand scale was attempted. It was very much in the nature of an experiment, for when the pickets first started most of them only had a rudimentary idea of just how far a picket might or might not go, with the result that Anthony Hughes, picketing the Winter Garden, was arrested.

The object lesson was useful and full instructions were issued to all pickets. To begin with, each picket was definitely appointed. Pickets were to talk to each other but not to anyone else, unless first spoken to; and, above all, were to keep moving.

The news of these stirring doings was flashed to Strike Headquarters which, all day long, had been crowded. In this one day

* *New York Tribune,* August 9, 1919.

Equity received six hundred applicants for membership. By ten o'clock those who had been out picketing were drifting back to find how matters stood in other sectors.

Very soon every inch of the hall was filled. Members spilled out into the corridors, cascaded down the stairs and out into the street, which was filled solidly for almost a block.

It was long past midnight when the lights were turned out at Strike Headquarters and West Forty-Fifth Street regained its wonted early morning calm.

Chapter VIII

MR. DILLINGHAM TAKES THE COUNT

On Saturday morning, August 9, Charles B. Dillingham, who had been in the west on business, returned to New York. So far no attempt had been made by Equity to interfere with "She's a Good Fellow" at the Globe Theatre, because of uncertainty as to whether or not Dillingham was a member of the Producing Managers' Association.

Immediately upon his return Equity requested from him a statement as to his true status. The producer, faced with the loss of his bookings if he deserted the managers at this point, replied with a statement in which he declared:

"Although I have just returned to the city after an absence of a month and am not familiar with the situation, the Actors' Equity Association by its threat to close my theatre and force actors to break their contracts with me against my will, compels me to take a stand and join my fellow managers in protesting any such arbitrary and illegal methods." *

That there was nothing personal in this stand was evident when the company, after it had been ordered out by Equity, reported to the Dillingham offices for its checks. Dillingham was there in person, and having ordered the checks to be made out for a full week's salary, although there were no performances that day, he wished his strikers good luck, individually.

Hitherto most of the spectacular and effective publicity had been obtained by the actors. At this juncture Edgar Selwyn secured an aeroplane, and had it fly over the theatre district at noon, dropping hand bills which promised that:

"Performances positively will be given by Holbrook Blinn in 'The Challenge' this afternoon and evening."

Members of the cast of "Lightnin'" inaugurated a publicity stunt of their own. They procured a big sightseeing bus, and painted banners informing all beholders: "LIGHTNIN'" HAS

* *New York American,* August 10, 1919.

STRUCK! With these they made a tour of the Times Square District, receiving ovations from their friends wherever they were encountered.

The pickets, if not as spectacular in their efforts as on the previous day, were equally effective. In particular, they concentrated on the chorus sections of productions playing or in rehearsal. Twenty chorus girls who were rehearsing in "The Passing Show" at the Winter Garden, marched over to Strike Headquarters in a body, and were received with enormous enthusiasm.*

The arguments to the chorus people were greatly strengthened by a meeting held at Strike Headquarters during the afternoon, at which it was announced that the formal organization of a chorus branch of Equity would take place the following Tuesday afternoon, August 12. Addressing the meeting Francis Wilson told the chorus men and women:

"We want you to be the Cuba of the situation for the time being. We want you to come as a dependent body, and when you become strong you will be an independent branch. You're not striking for more money, but the right to arbitrate."

The chorus people were warned that they would have to finance, in part at least, their own organization. In response to this warning one girl turned over her weekly salary envelope intact. It contained her first week's salary after twenty-two weeks of rehearsal in a Shubert production.

Such examples were contagious, and the managers who had companies which were threatened took as few chances with them as possible. Cohan entertained his entire company at dinner in the Hotel Knickerbocker between the matinée and evening performances. While they were at dinner a curious accident happened to the sign in front of the theatre so that it now read "George M. Cohan . . . The Vagabond." Morris Gest also entertained the "Chu Chin Chow" company on the Century Roof.

During the day messages of renewed support were received from groups of actors in Hollywood and Chicago. That which came from California read:

"Are delighted with the action taken Thursday, and with the spirit of loyalty and solidarity manifested by our brother actors, who cour-

* *New York American,* August 10, 1919.

ageously obeyed orders to curb the tyranny, arrogance and injustice of the managers."

It was signed by William Courtleigh, H. B. Warner, George Fawcett, Vincent Serrano, Milton Sills, Bert Lytell, Albert Parker, Earle Brown, Edward Connelly and William Burress.[1]

The Chicago wire was signed by Grant Mitchell and Tom Wise and represented the sentiment of the casts of "A Prince There Was," "Up in Mabel's Room," "Cappy Ricks," "Scandal" and Richard Carle's company, which were playing there.[2]

The United Scenic Artists, Local 829, also sent to Equity its approval of the stand taken by the actors. And the impression that Equity could soon count on the united support of Organized Labor was strengthened by the appearance at Strike Headquarters of James P. Holland, President of the New York State Federation of Labor.

Holland told a gathering of strikers which fairly bulged the walls of the meeting room that if the strike went over the week end it was his personal opinion that the stage hands, musicians and other unions could not avoid being drawn into the controversy. This action, it was pointed out by F. G. Lemaster, general secretary and treasurer of the International Alliance of Theatrical Stage Employes, would have to be endorsed individually by the executive committee of every union involved.[3]

So dense was the crowd in the street outside Strike Headquarters while Holland's message and other similar ones were being received that the Police Inspector in charge of this district ordered the street cleared, claiming that the congestion interfered with the passage of the United States Mails.

The Shuberts made special efforts to keep their revues, "The Gaieties of 1919" at the Forty-Fourth Street, and "Monte Cristo, Jr.," at the Winter Garden, running by drafts on vaudeville talent. This now led the Officers of the Vaudeville Branch of the Associated Actors and Artistes of America, the Four A's, to issue an order forbidding members of that organization to take the places of strikers.[4]

The Producing Managers' Association, busy trying to find new material for its productions and to hold on to the material already in hand, only paused long enough to announce that:

Photograph by Illustrated Press Service.

A scene at Equity Strike Headquarters during the rush of applicants for membership. Ruth La Grange (in the lower right hand corner) even brought her baby with her when she signed up. Others in the picture are: Ned Sparks, Harry Hugenot, Jack Hazzard, Alice Dovey, Ada Lewis, Robert McWade, Phil White and George Stifter.

Photograph by Pacific and Atlantic Photos, Inc.

The crowd before Strike Headquarters, at 160 West 45th Street, was so dense at times that the police ordered the street cleared, on the grounds that the passage of the United States Mails was being obstructed.

"The Producing Managers' Association adopted a resolution to offer financial aid to all loyal actors forced out of work by the strike. Reports from members showed satisfactory progress in completion of casts despite the extraordinary lengths to which the Actors' Equity Association has gone in the intimidation and coercion of its people." *

"TAXI! TAXI!"

These managerial accessions were offset by help for Equity from an unexpected quarter. Almost to a man the drivers of New York's taxicabs were with Equity. Many of them pasted stickers "Equity for Actors" on the windshields of their cars. And there were some who did not stop with moral support.

On one occasion Sidney Jarvis, stationed by the stage door of the Winter Garden, hailed the driver of a taxi which had been hired to convey a couple of acrobats from the Winter Garden to the Century Roof.

"Do you know," Jarvis said, "that you're carrying a couple of scabs to break the actors' strike?"

"What? Get to hell out of my cab," shouted the driver, and his passengers in their spangled tights resumed their journey—on foot.†

In the early days of the strike, a brother act performing at Loew's American Theatre, at Eighth Avenue and Forty-Second Street, was informed by the management that instead of going on in its regular spot it was to appear early in the bill. The brothers' indignant protests were silenced when he explained that Ned Wayburn was anxious to look over a girl on the bill, and could only come in for a few minutes about the time they usually went on.

But, after their appearance, they were stopped in the wings by the manager who said: "Don't take your makeup off. You're to go over to the Winter Garden and do your stuff there, too."

Instead of reminding the manager that there was a strike on at that house with which they were in sympathy, the brothers said nothing and jumped into the taxi called for them. It was clear

* *New York American,* August 10, 1919.
† *New York Clipper,* August 13, 1919.

that the chauffeur had little use for his cargo of talent. He kept looking back at them over his shoulder and muttering "Scabs," and other epithets in their general direction.

Finally one of the team leaned over and asked: "Are you a union man?"

"I am that," was his reply.

"Well, then, would you mind driving two good union actors —home—on the management?"

The act has yet to reach the Winter Garden.

On this day three hundred new members were enrolled, and the total membership had now risen to near the four thousand mark.

FIRST CALL FOR A COMPANY UNION

Hitherto Sothern had maintained neutrality, or at least had not participated in the struggle. But the tighter drawing of the lines caused by the deadlock into which the strike had drifted forced him definitely into the managers' camp. On Sunday, August 10, after a conference with the managers which had lasted well into the morning, Sothern sent this telegram to a selected group of actors and actresses:

"Will you join me and other members of our calling in forming a new Association to uphold the dignity of the theatre and for the betterment of the conditions of the actors."

Although the wire was signed "E. H. Sothern" and replies were requested to be sent to him at the Hotel Biltmore, New York, it developed later that the account to which the telegrams were charged was the Danville Corporation. And the Danville Corporation had been formed by Charles D. Coburn and some of his relatives to produce "The Better 'Ole." Thus, very clearly, from its inception the new organization, and the Actors' Fidelity League into which it finally evolved, was a creature of the Producing Managers' Association, and nothing less than a company union.

In a supplementary statement which explained his reasons for proposing the new body and his belief in the utter hopelessness of the strike, Sothern declared:

"This is not merely the strike of a few actors against certain managers. This is something deeper, far more vital. The whole future of the theatre now hangs in the balance. A touch may

send it, the theatre, the fourth greatest industry of the United States, crashing into chaos. Aside from the loss in a financial way, this catastrophe would involve the ruin of one of our greatest arts. It would be centuries before it would ever be revived. After the fall of Greece for a thousand years the theatre was lost. If this strike goes on I look to see just such a calamity occur again.

"When I say the theatre may disintegrate I mean just that. The men who run the theatres are business men, not artists, as a rule. So long as it pays them a decent profit they will continue. But the minute it threatens to bankrupt them they will turn their undisputed abilities into some other walk of life. They are not limited to the theatre. Men of their abilities could succeed in any business. They could take their capital and their talents into some trade that does not present so many hazards.

"The managers cannot surrender. It is impossible. I talked with them today and if ever I saw earnest men they were in earnest. They said that they would not concede what the actors wished, for the reason that they would have no pledge that two weeks from today another strike might not be called and demands made which would be even more radical and exorbitant. If the actors break their signed contracts with the managers on a minute's notice, what guarantee would a producer have that the Equity contract would be kept? Why should a manager run this risk? He has tens of thousands of dollars invested, all of which depends upon the reliability of the actor's word. If the actor can go on strike any time he wishes the hazard is too great for capital. Hence the best way is to take that capital into some industry where the risk will not be so great, even though the profits be less.

"Today I passed the overflow meeting of the striking actors on 45th street. They were cheering. The public laughed. They did not know that perhaps they were witnessing the death of the theatre. The actors who stood in the street did not realize they are now killing the goose that lays the golden egg.

"The striking actors are hissing the men who took their places as 'scabs.' Yet these very 'scabs' they hate are the ones who are keeping the theatre business alive. I remember the definition of the word 'scab': A device of nature, a gift of God which stops the wound and prevents the body from bleeding to death! These 'scab' actors are preventing the theatre from bleeding to death.

"The striking actors ought to get down on their knees and thank these men for what they have done!

"When I heard that a strike was contemplated, I came to New York for the purpose of seeing if it could not be averted. The managers were willing—more than willing—to do anything that they could do to prevent the walkout and the consequent loss of business. They offered to let any actor of the Equity heckle them. They were willing that any actor should point out any manager who had wronged him and let the accusation and righting of this wrong be public.

"I went to the Council of the Equity and told them this. I told them a strike was wrong. But the Council said that I had insulted them. They would not listen.

"Later I addressed the mass meeting of the Equity. I explained the offers of the producers and offered to mediate. After my speech they hissed me. They voted to strike.

"And when they voted to strike, they injured themselves far more than they injured the managers. They voted away their profession." *

During the day Equity appointed several Deputies at Large with authority to speak for the Association both in and out of meetings. These Deputies at Large instituted a recruiting campaign to bring in members who had not yet appeared in person and volunteered.

The recruiting was especially brisk in the theatrical clubs. From one of these, The Lambs, a telegram was sent to Rapley Holmes, who was visiting William Collier at his place on Long Island. Collier had already resigned from Equity, and his friends in The Lambs were anxious to discover where Holmes stood. The wire read:

"Are you with us or against us? Answer."

Holmes' reply was the one word: "Yes."

The managers' meeting on this afternoon was chiefly notable for the fact that at this time David Belasco publicly announced that if the actors won this strike he would quit producing before he would deal with the Actors' Equity Association. Thus Belasco won the distinction of being the first, though he was not the last, manager to threaten to abandon the stage to its fate if the actors gained the upper hand.

* *New York Herald,* August 11, 1919.

THE MANAGERS TAKE THEIR HATS IN HAND

A curious spectacle which resulted from this meeting was the pilgrimage of a committee of managers composed of David Belasco, Harrison Grey Fiske, George Broadhurst and E. H. Sothern, which wended its way into various city rooms and the sanctums of the managing editors of New York's daily newspapers bearing in person the managers' side of the controversy with Equity. For this show, at least, the managers were doing their own press work, and not taking any chances of the allotment of space it might receive in the general run of the news.

There was not much new stuff in their statement. One section of it which dealt with the proposal of Equity to submit to arbitration the question of an eight performance week, and the nomination of the Honorable William Howard Taft and the Honorable Charles Evans Hughes as arbiters, hitherto ignored in managerial statements, is illuminating as to what the managers considered as suitable material for submission to arbitration. That section read:

"The chief point of difference between the actors and the managers was the 'eight performance' clause. The managers had brought much evidence to show that this was a demand they could not comply with in many cases. As further evidence of his good faith Mr. Wilson offered to submit this clause to the arbitration of Professor William H. Taft and Charles E. Hughes, knowing full well that the managers could not honestly enter into such arbitration, since they could not afford to abide by an adverse decision. . . .

"And as a grand climax came the strike, complete repudiation of Equity contracts, by which the managers were faithfully abiding, vulgar street displays, five hundred dollar a week actors accosting thirty dollar a week chorus girls at stage doors and asking them to go out in sympathy, threats of assault on managers, wrecking of theatres, vilest of all, anonymous letters and the completest demonstration of the misery an unscrupulous agitator can create—especially when he has as his plaything an unusually emotional class.

"It has ceased to be a struggle between the actor and the manager. The manager must now fight to deliver the actor from the grip of unscrupulous agitators and restore him to a position of some personal liberty." *

It would undoubtedly have strengthened the argument regard-

* *New York Telegram,* August 11, 1919.

ing the lawlessness of the actors if the managers had named one of the "wrecked" theatres, or cited some examples of the "misery" caused by the "unscrupulous agitators" from whose grip they purposed to free the actors. But they did not.

Since the day was Sunday, all the legitimate theatres were closed. At the Winter Garden, however, it was again customary to give "Sacred Concerts" with all star casts rendering "sacred" acrobatics and jazz. The fact that this house was open then led the Shuberts to announce that the crippled companies of "The Gaieties of 1919" and "Monte Cristo Jr." would henceforth be combined, and from them a vaudeville performance would be constructed.

Also encouraged by their successful prosecution of Anthony Hughes two days before, the Shuberts announced that they meant to take a firm stand in the matter of pickets. They secured the arrest of Richard Gordon who had been stationed at one of the doors of the Winter Garden. Gordon, however, as an official Equity picket, did not suffer the fate of Hughes.

John Drew made his first appearance at Strike Headquarters during the evening and received a tremendous ovation. He announced that his nephews Lionel and John Barrymore had sent word through him that they were with the Actors' Equity Association and that his niece, Ethel Barrymore, had written him the following message which she had asked him to deliver for her:

"While my entire theatrical career has been associated with but one management from which I have received only fairness and consideration, I feel that the traditions of my family and my personal predilections ally me logically and irremediably with the members of my profession in the Actors' Equity Association." *

Among those who had surrendered to the managers, and whose resignations from Equity were announced by the managers' press bureau, were Laura Hope Crews, Janet Beecher, Zelda Sears, Valli Valli, Olive Wyndham and Jeannette Lowrie.

To balance these losses Equity was able to point to the closing of the Forty-Fourth Street Theatre, from which the balance of "The Gaieties of 1919" company had been transferred to the Winter Garden and fused with the remnants of "Monte Cristo Jr.," and to more than four hundred new members. There were now eleven theatres closed.

* *New York Tribune*, August 11, 1919.

MR. ZIEGFELD PULLS THE FIRST INJUNCTION

From the beginning of the strike the exact position of Florenz Ziegfeld had been in doubt. Privately he had assured members of his cast, and others, that he was not a member of the Producing Managers' Association. Hence, after the initial walkout of Eddie Cantor, Eddie Dowling and Phil Dwyer, the "Ziegfeld Follies" had not been disturbed by the pickets or by an order to walk out. But the Producing Managers' Association had maintained consistently that Ziegfeld was a member, and pointed with pride to the excellent business "The Follies" played to as something of a managerial triumph.

Equity therefore felt constrained to employ with Ziegfeld the tactics which had been used in the case of his partner, Dillingham.

On the morning of the eleventh of August, Equity notified Ziegfeld that before five-thirty that afternoon it expected definite and official assurance that he was not a member of the Producing Managers' Association.

Ziegfeld was not in the mood to allow his show to be closed by Equity, and yet he knew that in the face of orders from Equity he could not hope to keep his cast in line. The events of the first night of the strike had demonstrated that only too clearly. In this crisis therefore, he turned to the courts to compel his company to continue to work for him whether or not it wished to.

In applying to the Supreme Court for a temporary injunction restraining Equity, its officials, or individual members from urging or influencing his actors and actresses to leave "The Follies," and his players from doing so of their own accord, Ziegfeld beat, by a few hours, the Shuberts in their damage suits, and so achieved the distinction of being the first producing manager to appeal to the courts to beat the strike.

It was to Supreme Court Justice Richard P. Lydon that Ziegfeld applied for his injunction. Justice Lydon set August 13 as the date on which arguments for and against issuing the injunction would be heard.

Eddie Cantor, Gus Van, Joseph Schenck, John Steel, Johnny Dooley, Ray Dooley and Eddie Dowling were the members of "The Follies" named in the restraining order. Francis Wilson, as President of the Actors' Equity Association, John Cope and

Harry C. Browne of the Council; Paul N. Turner, Equity Counsel; and Harry Mountford and James W. Fitzpatrick, as officers of the Four A's, were made defendants, on the ground that they were attempting to ruin Ziegfeld's business. Pending the hearing on the injunction Justice Lydon issued a temporary restraining order covering all the points to be enjoined.

The restraining order was a very thorough and complete piece of work. It neglected or omitted nothing by means of which the actors could annoy Ziegfeld or his "Follies" or persuade the actors in that production to walk out. Picketing was expressly and specifically covered and no loopholes were left for appeal.

No word of this leaked out until copies of this order were in the hands of process servers, and these were in search of their prey along Broadway, and in and about the New Amsterdam Theatre, at which "The Follies" was playing.

Then, and then only, did Ziegfeld send to Equity Headquarters, along with a copy of the restraining order, the defiant notice that: "I feel honored to be able to announce that I have today become a member of the Producing Managers' Association." *

Ziegfeld had maintained his position as a neutral as long as he could. It is possible that he was quite genuine in wishing to remain out of the fight but had been forced to enlist with the managers through a threat to cancel his bookings if he yielded to the actors or compromised with them. That threat had been as efficacious with him as in the case of Dillingham.

On the same day that Ziegfeld was drafted Walter F. Wanger and Charles Emerson Cook were likewise inducted into the managers' service. The latter openly admitted that he had tried hard not to join the Producing Managers' Association but that, faced by the threat of cancelled bookings, he had been forced to comply. Cook's stay in the camp of the Producing Managers' Association was a costly one for the Association. Shortly after the strike his production "A Regular Feller" failed, and the Association, for its brief pleasure in presenting a united front, was forced to make good on Cook's salaries to the extent of nearly $1,500.

* *New York Herald*, August 12, 1919.

Chapter IX

THE SHUBERTS WAVE A RED FLAG AT LABOR

Almost simultaneously with the application of Ziegfeld for his restraining order the Winter Garden Company, for the Shuberts, filed suit in the United States District Court for the Southern District of New York, against the Actors' Equity Association, its Officers and one hundred and eighty-four of its most prominent members. Strike damages of $500,000 were demanded, based on the precedent set by the famous Danbury Hatters' case.

This Danbury Hatters' Case was one of the best known labor cases in the country. In 1914 the Hatters' Union, in a strike against its employers, instituted a boycott against the hat works of D. E. Loewe in Danbury, Conn., in which its members had formerly worked. The employers sued the union and its members as individuals, seeking to hold them responsible for the losses incurred. The courts upheld this interpretation of the law and many members of the Hatters' Union lost their homes, their bank accounts and everything they had in satisfying the indemnity. Now the managers proposed to employ the same tactics again, hoping thus to induce the prominent and wealthy members of the Actors' Equity Association to quit the actors' side; or if they remained in the Association, faced with this possibility they might force Equity to compromise.

Intent upon the probable effect of this action on the individual actors involved, the managers had quite neglected to consider its effect upon Union Labor in general. But the Danbury Hatters' Case was one of the sore spots in Labor's anatomy and, in prodding it thus, the managers had done more to arouse Labor's interest in and sympathy for Equity than Equity had accomplished by itself. If Union Labor had been solidly *with* Equity before, it was now actively arrayed *against* the managers in the theatre fight.

In the bill of particulars which accompanied the action, the Shuberts alleged that "The Gaieties of 1919" and "Monte Cristo Jr." had each cost them $100,000 to produce. It further declared that certain members of those two companies had been widely

advertised, and that their services were unique and inimitable. For their loss, for which Equity, its Officers, and its individual members were jointly and severally held responsible, the Shuberts demanded $500,000.

The list of members sued was an honor roll, a veritable Who's Who in the Theatre. It was the best possible indication of the caliber of the men and women who composed the Actors' Equity Association, and afforded the public a key to the character of those who were waging the fight against the managers.[1]

Certain members of the Association who were named in this action were then and had been for some time definitely identified with motion pictures. In this class were Douglas Fairbanks, William S. Hart, Allan Dwan, and others. The inclusion of their names, the managers contended, was justified by legal precedent. The legal precedent which justified the inclusion of the names of Frank Kemble Cooper and Frederic de Belleville, who had died prior to the filing of the suit, has never been cited.

Many, perhaps most, of those sued, were in New York and out on Broadway on Monday evening. The weather was fine, and there were more striking actors visible than at any time in the whole history of the strike to date. For that reason Broadway was almost alive with process servers lying in wait for their prey. Spotting the actors they knew, and inquiring of passersby as to the identity of others at which they guessed, they would dash up, thrust the papers upon them, and be off in pursuit of others before the actors served could comprehend what had happened.

The droves of process servers were thickest about Strike Headquarters, and the Longacre Building at the corner of Broadway and Forty-Second Street. In the beginning it was necessary that Francis Wilson and certain other Equity Officers should not be served, that they might retain their freedom of movement and the control over strike funds.

Consequently that night Wilson departed for a destination vaguely reported as "somewhere out of town." Frank Gillmore, Grant Stewart and others could not separate themselves from the leadership of the strike, but until affairs had been so arranged that their service was no longer important they managed to avoid those who carried the papers.

In this they were aided and abetted by members of the staff of the building. Elevator starters, and runners, janitors, and

others did everything in their power to protect the Equity officials with whom they sympathized.

Many of the process servers became known by sight and the appearance of any one of them at any entrance of the building was at once relayed to Equity Headquarters.

It became decidedly unsafe for the Equity leaders to get off at the sixth floor, on which the offices were situated, and they adopted the expedient of leaving the elevators at other floors and walking back; of using other entrances to the office suite, and in general all the dodges which the hunted develop for their protection.

While the process servers were earnest and efficient in their pursuit, they were sometimes quite in sympathy with their quarry. When the time for concealment was over and the Equity strike leaders were advised by counsel that their service would not put any of Equity's plans in jeopardy, Grant Stewart was approached by a man from the Shubert office who at the time he served the papers, muttered:

"I'm sorry to have to do this, Mr. Stewart. I hope you win."

Naturally enough the legal proceedings overshadowed the other happenings of the day. But they were important enough to have received considerable publicity otherwise.

The outstanding event was a meeting at Strike Headquarters during the morning between Frank Gillmore, James Holland, President of the New York State Federation of Labor; Frayne, Weber of the Musicians, and W. B. Rubin. This clearly foreshadowed concerted action on the part of Organized Labor, but those who took part in it contented themselves with saying that it had been an informal meeting, with the results of which they were highly gratified. And they would say nothing more.[2]

THE PRETTIEST STRIKERS IN HISTORY

As this meeting was in progress a flying squad of fifteen automobiles decorated with gay banners, streamers and ribbons, and filled with the prettiest collection of strikers in history, wound its way down Fifth Avenue and into the Financial District. Some of the banners which whipped in the breeze warned passersby: "WE ARE MEMBERS OF THE ACTORS' EQUITY ASSOCIATION." "WATCH YOUR STEP IF YOU BUY

TICKETS TONIGHT." "WE ARE WILLING TO ARBITRATE BUT THE MANAGERS ARE NOT." "WE ARE NOT AFTER MORE PAY, BUT FAIR PLAY."

Stars and leading ladies shared their seats with the prettiest girls the musical comedies could produce. The drivers were, with one exception, prominent members of the theatrical profession. That one exception was a union chauffeur who offered himself and his car for the occasion, and made it clear before starting that he would not accept pay for his services.

The parade was a big hit in Wall Street. The Curb Market, then holding forth on Broad Street just off Wall, took an impromptu recess and joined the throng which gave the strikers' automobiles an ovation.

On the steps of the Sub-Treasury a recruiting officer was in the midst of his speech. Pausing, he pointed to the actors' automobiles and said: "Listen to these speakers. Their cause is a just one. We want them to win and they are going to win." *

Despite this raid into enemy territory, undertaken in fact because so much of the money which make productions possible originates in Wall Street, Strike Headquarters was taking on its regular rush of new members. Grace George's entire company, with the exception of Miss George herself, walked into Strike Headquarters in a body. In all more than one hundred and fifty new applications were received this day.

Preliminary to the organization of the chorus, which had been set for the next day, two meetings of chorus men and women were held at Strike Headquarters. To these meetings Frayne gave the lie to the managers' assertions that they had no quarrel with Organized Labor. "The managers have taken pains through the press to announce that they have no grievance against Organized Labor," he said. "Let me answer that publicly by saying that Organized Labor has many grievances against the managers, and Organized Labor proposes to stand behind the actor on the eve of his emancipation." †

These meetings surpassed in demonstrativeness, if possible, those of the Actors' Equity Association, Ed Wynn, Barney Bernard, and Pearl White whipped the enthusiasm of the audiences to a high pitch.

* *New York Tribune*, August 12, 1919.
† *New York Clipper*, August 13, 1919.

Mary Palay, oriental dancer, brought in a group of twenty girls from the rehearsal of the Shubert production "Sinbad." She declared that all morning E. Romeyn Simmons of the Shubert office, had been trying to get the girls to agree to join a new organization being started by the managers. Among the inducements Miss Palay reported as being offered by Simmons were: "No dues, and a fine organization where you can voice all your grievances." * But that bait had not been attractive enough, and the girls were enrolled as prospective members of the Chorus Equity Association.

Late in the meeting there was a shout from the back of the hall. "All the girls from the Winter Garden have walked out of there and walked in here."

And to serve as a climax for the meeting a Follies girl climbed on her seat: "Who wants to be arrested tonight? Let's go picketing!" And the meeting was on its way.

Altogether, it was found on casting up at the end of the evening, approximately seven hundred and fifty applications for membership in the prospective Chorus Equity Association had been received.

The work of Wynn and Bernard was not confined to these meetings. During the day they arranged interviews with Vincent Astor and Mortimer Schiff, both of whom had evinced a deep and unsolicited interest in the cause of the actors. It was revealed that Astor was the owner of many theatre sites, especially those upon which Shubert Theatres had been built, and other property on which they held options. The conferences took place the next day, and the interest of Schiff and Astor was just as keen as had been reported. Equity did not then, or at any later period in the strike, make any request of them for aid. Nevertheless, the possibility of their intervention was a constant shadow over the managers.

Up to this time the managers had been doing their own press work, or had been getting out their statements through the office of Cohan and Harris. But the press bureau conducted for the actors by Stewart and Whyte, with its supplementary bureau at Strike Headquarters under Ned Sparks, had been so successful that the managers decided to imitate it.

The close connection between the legitimate producing man-

* *Variety Daily Bulletin*, No. 3, August 12, 1919.

agers and Albee, who as a vaudeville manager was not directly affected by any Equity demands, was still further exemplified in the personnel of the bureau. It was established in the Cohan and Harris offices, under Arthur Hopkins, but the men who did the actual work were Will Page, of the Comstock and Gest staff; and Walter Kingsley, who for years had handled Albee's personal publicity and was his right-hand man in such matters.

The first action of this new bureau was to broadcast the news that before five o'clock of that day Sothern had received "More than sixty enthusiastic acceptances from some of the best known actors and actresses in America. Among others who joined with him immediately were David Warfield, Minnie Maddern Fiske, Henry Miller and Howard Kyle." *

Not all the replies to Mr. Sothern's wires had been enthusiastic acceptances, however. The general tenor of many was similar to that sent by Colonel Earle Boothe who replied to the invitation to join Sothern's new association:

"I served eighteen months overseas without turning traitor, and don't see why you should think I would do so now. I also learned to recognize camouflage over there."

Sothern himself denied that he had any intention of disrupting the Actors' Equity Association or of forming a rival to it. In the *New York Morning Telegraph* he asserted that:

"The idea that I am forming another Association for the purpose of breaking up the Actors' Equity Association is an error. I am forming no such organization. I want it distinctly understood that I have no axes to grind—nothing but the welfare of the theatre at heart.

"The actors have come to the wrong conclusion if they think that such an organization is to be formed on the understanding that it is to be favored by the managers in making business agreements. That is not so.

"I merely telegraphed some 20 or 30 actors and actresses of note for the purpose of seeing if we cannot get together and find some solution of the problem which now confronts the theatre. It is in the nature of an emergency committee.

"I will not try to influence any one. I will merely be a member. We may form a committee and approach the managers for the

* *New York Tribune*, August 12, 1919.

purpose of finding out what they will grant. This declaration we will then submit to some of the striking actors.

"I do not favor the managers. I do not favor the actors. I am merely trying to find a way out of what seems to me an impossible situation.

"I have asked William Collier, Holbrook Blinn, Mrs. Fiske, Blanche Bates, Henry Miller and a number of others to act on the committee."

At no time since the beginning of the strike had the pickets been so numerous or so well organized. This support was supplemented by the Automobile Flying Squadron, including many of the cars which had participated in the Wall Street foray in the morning.

The combined efforts of all these factors did not prevent the reopening of "Listen Lester" at the Knickerbocker Theatre, with several authors and producers in the cast. Rehearsals for this production had been going on almost night and day since the closing of the original company with the calling of the strike.

In a curtain speech Harry Sommers, manager of the theatre, declared that the cast was not composed of understudies or second rate players, but of "real actors" for whom the management would not apologize, because there was no need of apology. The chorus was reported to be the original article.*

The New Amsterdam Theatre, on Forty-Second Street, due to the restraining order issued by Justice Lydon, was left severely alone by the pickets.

Morris Gest was standing on the steps of the Century Theatre watching some of the pickets entertaining the crowd. As Pedro de Cordoba finished his bit Gest broke into applause and called out: "That's the best performance you ever gave."

A LETTER FROM NATHAN BURKAN

So impressed were the producing managers with the tactical value of publicity for the list of those sued by the Winter Garden Company that they loosed their purse strings and spread those names far and wide. On Tuesday, August 12, many thousands of managerial dollars went into the printing of that list in nine

**New York Clipper,* August 13, 1919.

morning and seven evening papers in New York City; four evening papers in Brooklyn; three morning and four evening in Boston; two morning and four evening in Chicago; and five morning and two evening newspapers in Philadelphia.

Accompanying the list of names was a letter which had been written to Gillmore by Nathan Burkan, upholding the application of the Danbury Hatters' Case as a precedent in the action of the Winter Garden Company, and resigning his Life Membership in the Actors' Equity Association.

What made this action of Mr. Burkan's of unusual interest was the fact that at the time he wrote the letter Burkan was still Associate Counsel of the Actors' Equity Association. This letter to Gillmore was, then, the first intimation that Burkan had developed into an active enemy.

Before the sun was well up over Long Island a flock of attorneys and research experts had settled upon Nassau County, to wait for the opening of the Court House, and to investigate the titles and ownership of property belonging to any actor on the list sued by the Winter Garden Company. Particular interest was shown in the actor colonies in the neighborhood of Great Neck and Freeport.[3]

Morris Gest thought so well of this weapon that early in the morning his attorneys were at work on a similar suit for $250,000 against those responsible for the closing of "The Five Million."

If the effect of the citation of the precedent of the Danbury Hatters had an unfortunate effect upon Labor (from the managers' standpoint), its effect upon the important actors at whom it was aimed was no less unfortunate. More than any act of the producers to date it solidified the opinion of these actors for Equity.

They felt that they were now marked men; that they could literally not afford to let Equity lose. They remembered—it had been forcibly called to their attention—that the victorious employers had ruthlessly pressed their advantage in the case of the hapless hatters—how could they expect greater consideration here? So their careers, their homes, their savings, literally everything they had depended upon an Equity victory. If they were in for it, they had better stick together and put up a good fight.

For this heightened and intensified feeling the managers were largely responsible.

Chapter X

THE CHORUS EQUITY IS BORN

The Chorus Equity Association of America was formed at a huge meeting at four o'clock in the afternoon of this day at the New Amsterdam Opera House, on West Forty-Fourth Street.

Although the chorus people were now for the first time formally arrayed with the Actors' Equity Association they had been active participants in the strike from the beginning. In some instances that participation had been involuntary, since the walk-out of the principals had automatically closed down the productions. The managers had been quick to see this and had scored one of their few direct hits during the engagement by commenting on the fact that Equity, which had been proclaiming its devotion to the little fellow, had abandoned these chorus people to their fate.

But it had become increasingly difficult in the last five days to persuade the chorus men and women to wait for the formation of their own organization which could give them direct orders to walk out. Individually and in small groups chorus men and women had left the productions in which they had been playing and rehearsing and had reported to Strike Headquarters, eager for any duty they might perform.

Marie Dressler, who had started her theatrical career as a chorus girl at eight dollars a week, was in the chair.

Ethel Barrymore came to lend the prestige of her presence to the organization of the chorus. And this prestige was a very real thing. Both the Drews and Barrymores, from whom she was descended, represented the finest things in the theatre and to their prestige she had added that of her own personal success. It was recognized that Ethel Barrymore spoke not only for herself but for her family. Her presence at the organization of the chorus was of more significance than that of just one star, therefore.

To the chorus Miss Barrymore repeated the short speech she had previously made at Strike Headquarters earlier in the afternoon.

"I don't know how to make a speech, really," she began, "but I

am with you heart and soul, and more than that. Don't be discouraged. Stick! It's all coming out just the way it ought to for us." *

Gillmore assured them that: "Before we make peace with the managers we will insist that the chorus shall not rehearse more than four weeks without payment. That's official, and the first time it has been said officially. After four weeks' rehearsal you will receive one-half week's salary per week, and you will not be expected to pay for your shoes and stockings. When the managers started this thing they did not know what they would be up against." †

The support of the International Alliance of Theatrical Stage Employes was pledged the chorus by Charles C. Shay, its President, who asserted: "The stage hands will give you all the support the law will permit." And he cited a dilemma in which he found himself in the course of his inspections of certain theatres, when he had not been able to decide which sub-cellar had been set aside for coal, and which for the chorus.*

Nor were the musicians to be outdone by the stage hands. Thomas Gamble, Vice President of the American Federation of Musicians, on behalf of the 80,000 members of his organization, assured the meeting that: "The musicians are absolutely in sympathy with the Actors' Equity Association."

Sam Bernard was outlining the reforms to be instituted in chorus work when the doors at the back of the hall opened and a shout went up from someone sitting near by:

"The Hippodrome girls have walked out and are coming in!"

This was a cheering bit of news, for the Hippodrome, which had been scheduled to open during the latter part of August, had been in rehearsal for several weeks, and the strikers had been pleading daily with its chorus to come out ever since the calling of the strike.

On the instant fifty of the Hippodrome girls were marching in two by two, into an ovation which shook the not very solid rafters of the hall.‡

* *New York Call,* August 13, 1919.
† *Billboard, Special Supplement No. 2,* August 16, 1919.
‡ Later, because of the classification of this house as vaudeville, these girls were ordered back to rehearsals and returned.

Capturing the attention of the meeting was not an easy task, but Rubin, who had assisted many labor bodies into life, managed it finally, and after some debate a permanent organization was effected, with Marie Dressler unanimously elected President; and George T. Stifter, Secretary.[1]

The name of the Chorus Equity Association of America was formally adopted, and the initiation fee was set at $1.

An organizing and constitutional committee was chosen consisting of one man and one girl from each production represented at the meeting.

The stimulus proceeding from the enthusiastic organization of the chorus was reflected at Strike Headquarters. Here between eleven and twelve hundred new members, of whom about three hundred and fifty were chorus people, were enrolled during the day. This, for the time the office was open, represented rather more than one a minute for the whole day.

By this time the volume of business transacted hourly by the Publicity Bureau of the Association had overflowed its cramped quarters in the Longacre Building. At this juncture Frank Case, proprietor of the Algonquin Hotel on West Forty-Fourth Street between Fifth and Sixth Avenues, came forward with the generous offer of space for the Publicity Department without charge. The entire staff, including its clerical help, was settled in Room 2111 of the Hotel, and remained there for the duration of the strike. Meals were also furnished and Mr. Case not only refused to accept any payment for them but contributed $1,000 to the general strike fund.

All along, the managers had made their strongest bulwark the claim that Equity members had broken their contracts by walking out. The actors' interpretation of the dispute was given greater weight in the eyes of the public by a telegram received at Headquarters during the afternoon from Lillian Russell at Atlantic City. Miss Russell wired to Grant Stewart:

"The Shuberts owe me one hundred dollars on one of their contracts which they now claim as sacred. If any miracle worker can be found who can collect this money, I will be glad to turn it over to the Actors' Equity. Best wishes." *

This did not look quite right to Stewart, especially the sum

* *Billboard, Special Supplement No. 2,* August 16, 1919.

mentioned, but there it was over Miss Russell's signature and he released it for publication. And coming as it did from Miss Russell, it was widely disseminated.

A little later, when Miss Russell saw a paper with the story in it she wired again: "A mistake was made in my telegram. It should have read, 'The Shuberts owe me $100,000 which, if collected, I will gladly turn over to Equity.'"

"I WILL RUN AN ELEVATOR"—G. M. COHAN

It was at this point that George M. Cohan made his classic assertion that: "Before I will ever do business with the Actors' Equity Association, I will lose every dollar I have, even if I have to run an elevator to make a living.

"Every dollar I have in the world, and I have a few, is on the table in this fight against the actors who are being misled by the Actors' Equity Association. I would be with the actors if they were right, but they are being misled." *

And Cohan confided to the *New York Morning Telegraph* reporter: "The actors overlooked one important thing when they called their strike— That's me.

"They broke their contracts.

"I don't care what the other managers do, but I'm going to fight that bunch of contract breakers for arbitration of grievances by two individuals, one to be chosen by the actor, the other by the producer, and a third to be chosen by those two referees.

"We are willing to arbitrate all difficulties, but not with that Equity crowd.

"I don't care. I won't deal with them, because—well—because I won't." †

To show that he was really in earnest in his assertion that he would have no more to do with those who opposed him, Cohan resigned from The Lambs and The Friars. This latter parting hurt, for he had been the Abbot of the club for some time.[2]

In announcing his resignation Cohan said: "I am not going to associate as a fellow club member with actors who insult me and my family. I am through with the Lambs and the Friars, and that's final." ‡

* *New York Herald,* August 13, 1919.
† *New York Morning Telegraph,* August 13, 1919.
‡ *New York Times,* August 13, 1919.

The insult to which Cohan is believed to have referred was said to be a telegram from Captain William Harrigan, son of the famous Ned Harrigan, of Harrigan and Hart who, although it was later denied, was credited with having wired:

"Both our dead fathers were great men. Mine is sleeping peacefully in his grave. I'll bet your father has turned over in his because of your treatment of the actors." *

THE BATTLE SPREADS TO CHICAGO

Ever since the beginning of the strike it had been a foregone conclusion that if it lasted long enough it would spread to other cities. The actors had been willing to confine the fighting, and consequent unemployment, to the New York sector, and the managers also had been anxious to have their plays continue as long as was possible, and so had made no move to call attention to their profitable outposts.

Now, however, Equity saw that these tactics were too slow, and that the companies on the road were giving aid, encouragement and funds to the managerial treasury. It was decided to expand the fighting front.

Chicago, the second greatest theatrical city in the country, was the logical point for the delivery of the new blow. Equity had long been organized here, had established excellent relations with local Labor organizations, and trouble here would hurt the managers more than anywhere else except in New York.

Francis Wilson now in Chicago had consulted with Grant Mitchell of Equity's Council, who was starring at Cohan's Grand Opera House in Cohan's own play and part, "A Prince There Was," and with William Courtenay and Tom A. Wise, co-starring in "Cappy Ricks" at the Cort Theatre. These members in turn notified their companies of Equity's call, and sent word to the theatre managers that they would not appear that night. No attempt was made to interfere with any of the other theatres at the time. This was merely what military strategists call a demonstration in force.[3]

Warned by the events of the day in Chicago, the managers turned fearful eyes upon Boston. And by a free use of the in-

* *New York Tribune*, August 13, 1919.

junction weapon forged by Florenz Ziegfeld, they sought to prevent an outbreak there.

To that end Henry W. Savage appeared, through Thomas Barry, a theatrical lawyer, before Judge Lawton in Superior Court and secured from him an injunction restraining Officers and members of the Actors' Equity Association from interfering with the members of "See Saw" at the Tremont Theatre, and forbidding the performers as individuals to break their contracts. Selwyn and Company contented themselves with restraining interference with "Buddies" at the Park Square Theatre. These injunctions were made returnable on Friday, August 15, when arguments would be heard on making them permanent.[4]

Back in New York the old sidewalk parade and side show was in full swing. Pickets in front of the Booth and Century Theatres appealed to sailors from the Atlantic Fleet, which was in the Hudson River, not to hurt Equity's cause by attending "The Better 'Ole" and "Chu Chin Chow" playing those houses respectively. The sailors were reminded of the services rendered by the actors during the war. Many of them turned their passes over to the pickets, and promised to pass the word along to their shipmates.

So thick was the stream of demonstrators before the Winter Garden that eight policemen and half a dozen detectives were on duty there and both sides of Broadway in the neighborhood of Fiftieth Street resembled a street scene before a newspaper office on Election Night.

The managers, for their part, indulged in a little light comedy. Before the Gaiety Theatre appeared this sign:

"The 'Lightnin' company, having played here for 427 consecutive performances, feel that they require a short vacation. Performances will be resumed at an early date." *

Late that night an almost unprecedented bit of aid was given the strikers. The retail merchants on West Forty-Fifth Street between Sixth Avenue and Broadway organized and announced that they had been so impressed by the justice, loyalty and enthusiasm of the Equity, that while the strike lasted they would, all of them, "Agree to donate 10 per cent of their gross receipts to the Equity Strike Fund." †

* *New York Clipper*, August 13, 1919.
† *Variety Daily Bulletin*, No. 5, August 14, 1919.

THE FIGHT FOR "THE FOLLIES"

The hearing on Florenz Ziegfeld's plea for an injunction to restrain the Officers and members of the Actors' Equity Association from interfering with the "Ziegfeld Follies," and certain members of that company from walking out, came to trial before Supreme Court Justice Lydon on the morning of Wednesday, August 13.

Over the strenuous objections of the managers and their group of attorneys Equity obtained a modification of the order to the extent that the members of the company were no longer bound to continue to play against their wills, as the preliminary order had bound them. This relaxation of the injunction was obtained by Justus Sheffield.

Justice Lydon, in modifying his original order, announced that he had never intended to restrain the actors from quitting their employers, but only to restrain any persons from influencing them to do so.[5]

Eddie Cantor, Gus Van, Joseph Schenck, Johnny Dooley, Eddie Dowling and John Steel, were therefore left free to do as they chose with regard to playing or striking.

The managers were far from cast down by this decision, for although the restraining order had been loosened with regard to the individual players, they believed that they had made their point in maintaining the injunction against the officers and other members of Equity who had sought to persuade the actors to strike. Freed from this influence, and with all the counter-pressure the managers could bring, they felt sure that these actors would continue to perform in the "Follies."

A curious and ironical streak, which had run through all the relations of the Actors' Equity Association with the managers, now cropped out. The Shuberts came forward, praying of Justice Lydon an injunction to restrain interference with "Those Who Walk In Darkness." If ever there was an appropriate title for a production of disloyal actors, put on by a firm at that time notorious for its abuse of actors' rights, to break a strike called to establish the rights of those abused actors—this was it.

In this suit the Shuberts sought to correct the weakness of "The Follies" injunction by separating the actors from the Actors' Equity Association.

In addition to the order directed to the Actors' Equity Association and its members,

"the injunction restrains the members of the cast from 'participating in any way in the combination and conspiracy set forth in the complaint, and from doing any act in furtherance thereof' and also from 'interfering in any way with the performance of said play, "Those Who Walk in Darkness"'"[6]

This last clause was supposed to be "walk-out proof."

THE DRAMATISTS WOULD MEDIATE

The first offer of mediation submitted by outsiders came from members of the Society of American Dramatists. Identical copies of this letter were sent to Equity and the Producing Managers' Association. That which was received by Equity read:

"As playwrights, vitally concerned in the present controversy between the actors and managers, we beg—on our behalf and that of our fellow authors—to offer our services in any capacity that may suggest itself, in order to arrive at some solution of the present difficulty that is endangering the very life of the theatre.

"We, naturally, as playwrights, take a profound, but entirely kindly, interest in trying to find some settlement, realizing—as we do—that the success of any theatrical enterprise is dependent on the actor, the author and the manager, and on all three. May we therefore be of assistance?

"We are sending a copy of this letter to the managers.

"Yours respectfully,

"(Signed) George V. Hobart,
"Chairman."

"George Ade, Eugene Presbrey, Guy Bolton, Frank Mandel, Irvin Cobb, Roi Cooper Megrue, Harry B. Smith, P. G. Wodehouse—Committee."

To this letter Gillmore replied:

"The situation is very simple. The actors, at this time, only ask that this Association be recognized as their representative, that the Equity contract be generally adopted to cover all engagements to be performed during the season of 1919-20, and that if a

Committee of the two Associations cannot agree upon a form of contract for future use, any differences be arbitrated."

Arthur Hopkins, answering Mr. Hobart's invitation in person declared:

"We will never recognize the Actors' Equity Association. We will deal with any body of actors who come to us with a proposition of settlement, but we will fight to the last ditch against Equity." *

This, then, was an undisguised statement of the real issue in the managers' minds. The sacredness of contracts, the art of the theatre, their fatherly attitude toward their players, all used at one time or another as reasons why Equity contracts should not be issued as promised, did not, after all, constitute the final barrier. But the Actors' Equity Association, an organization which had dared defy the managers as a body, and had been successful to this point in that defiance, did constitute an element the managers could not tolerate, and they proposed to smash that element completely.

This declaration gave further point to the announcement of Sothern that he had: ". . . Invited fifty men and women, distinguished on the stage, to meet with me Friday. It is in no sense a new organization. It is simply an effort on my part to get together those of the profession who believe as I do that something ought to be done about the present deplorable situation. We will consult together, and if my friends decide that there is anything we can do we will do it. I have not allied myself with anybody. I am nobody's tool." †

That seems a simple and straightforward statement of purpose, and yet many of its readers could not but remember that in another interview on the same day Arthur Hopkins had said again:

"The only way the strike can be settled is through an organization similar to that proposed by Mr. Sothern. We will never reach an agreement with the Actors' Equity Association." †

Almost simultaneously Dr. Frank Crane, then on the staff of the *New York Evening Globe,* offered himself as a mediator. His proposition, printed in the *Globe* on this afternoon, was that

* *New York Sun,* August 14, 1919.
† *Ibid.,* August 13, 1919.

each side write a statement of its claims, which would be published in the *Globe,* and which would afford the public an opportunity of judging the merits of those claims, as well as serving as a basis for arbitration. He suggested one hundred and fifty words as a good limit.

Equity's reply was much the same as that given to the playwrights. For their part, the managers covered the same ground also, except that they went further than they had ever gone before and declared:

"The Producing Managers' Association wants to deal with the actors collectively as to the form of contract. It welcomes an organization of actors whose fundamental principle shall be the fulfillment under all conditions of the individual contract.

"The Producing Managers' Association again offers with any dependable actors' organization, to submit matters of contract fulfillment to a joint board of actors and managers, with an outside umpire. The Producing Managers' Association will bind itself to stand always on the one great fundamental that the theatre can only live when contracts between individuals are supported in their enforcement by every agency of the theater.

"Bring us an actors' association that is founded on the same principle. We will offer it a form of contract that is better than the former Actors' Equity Association contract. But it must be an organization in which the managers have faith. It cannot be the Actors' Equity Association. The Actors' Equity Association has proved that for all time." *

It all boiled down to this one fundamental difference, as Dr. Crane pointed out:

"There is but one issue joined. The Actors' Equity Association demands to be recognized as the representative of the actor, so that in case of a dispute the matter can be settled between the two associations. The Producing Managers' Association state that they cannot deal with or recognize the Actors' Equity Association.

"Here, at least, is a distinct issue. The two parties refuse to speak to each other. Very well. In that case will they speak to a third party?

"There is a third party. It is the public. The public is represented in a way by the press. The public has no particular interest in the

* *Variety Daily Bulletin,* No. 5, August 14, 1919.

matter except to see justice done, and as many people as possible happily and profitably employed.

"I ask the associations, therefore, if they will each appoint some representative who will confer with me. The three of us can then sit down and talk things over. We will not undertake to settle the strike, but simply to prepare some proposition to submit to both associations with a view to ending the present unhappy situation." *

In accordance with this suggestion John Drew was designated by Gillmore as Equity's representative to see Dr. Crane, partly because Drew, although a distinguished member of the Association, was not a member of the Council, and so had not rendered himself persona non grata to the managers.

The managers' representative was never named. When newspaper men reported Drew's selection to the managers' headquarters, Hopkins replied:

"We are in for a finish fight. We won't talk arbitration with Equity. We can never agree to have an association of that sort dictate our policy. If we give in we would always be in fear of the actors being called out. If we are going to be exposed to other calls, now is the time to be ruined, not then." †

And that was the end of that particular offer of arbitration.

Without any preliminary warning "39 East" at the Maxine Elliott Theatre was closed down by Equity just before curtain time for its matinée. The author and the nominal producer of the play was Rachel Crothers, who was not a member of the Producing Managers' Association, and who had agreed to issue Equity-U.M.P.A. contracts. For that reason the play had not been interfered with during the first six days of the strike.

Now Equity had received information which led to the conclusion that the real backers of the play were the Shuberts, in whose house the production was playing, and that Miss Crothers owned only a part of it.

It was claimed that the Shuberts owned only one-third of "39 East" and were concerned principally as the bookers of the attraction. Equity's information was so clear and convincing to it that despite protests from Miss Crothers and her representative, Mary

* *New York Evening Globe*, August 13, 1919.
† *New York Morning Telegraph*, August 15, 1919.

Kirkpatrick, "39 East" was deprived of its status as a neutral and joined the other theatrical casualties in the store house.

During the day the weather, which had so far been clear and warm, changed suddenly and it began to rain hard. The pickets who were out before the theatres where matinées were to be given, and who were also picketing the Times Square and Public Library Booths of the War Camp Community Service where passes were being distributed to service men, were unprepared for the change, but stuck to their tasks in spite of it. Few of the four hundred men and women engaged in that duty deserted.

A. H. Woods passed a group of pickets, dripping water but continuing their campaign against the matinée goers. "Hello, girls," he said, "where are your raincoats?"

"Well, Mr. Woods, we didn't expect this weather," was the reply.

Indicative of the state of mind of some of Equity's opponents was Woods' rejoinder.

"There's a store open down the street," he informed the pickets. "You go on down there and buy the raincoats, and I'll pay for them. I don't want you to get pneumonia, because when all this is over, I'm going to need you again." *

Some of the pickets had added to their equipment for spreading Equity propaganda tiny Pomeranians, Pekinese, and Bull Terriers, converted, for the occasion, into "Dogs of War." Oil cloth coats strung across their backs bore legends testifying to their undying loyalty to the Actors' Equity Association.

Cards proclaiming the identity of the merchants who had the night before pledged ten per cent of their gross receipts to the Strike Fund, now began to appear in shop windows along Forty-Fifth Street. Other stores and even restaurants began to offer special discounts to striking actors, and Sam Gerson's cigar store carried the sign—

"Striking actors get your cigarettes here, and pay when you win."

ZIEGFELD LOSES "THE FOLLIES"

One of the most dramatic instances of the strike occurred that night at the New Amsterdam Theatre where the "Ziegfeld Follies"

* *Variety Daily Bulletin*, No. 5, August 14, 1919.

was playing. Despite the relaxation of the restraining order against the individual members of "The Follies' " cast striking, it had been generally believed that they would not take any steps until after the hearing of the injunction itself, which was scheduled for Friday, August fifteenth. So sure was Ziegfeld that his cast was safe that he had not even bothered to come to the theatre on this rainy night.

Nor had there been any qualms of uncertainty in the minds of the box office attachés of the theatre, ticket brokers, or theatre patrons. A capacity audience filled the New Amsterdam at eight-thirty.

And then, to the crowded and expectant house, appeared the house manager who was forced to make the announcement that "owing to several desertions the performance could not be given," an announcement which was greeted with unsympathetic cheers, jeers and laughter, and which resulted in the formation of a double line of patrons several hundred feet long before the box office windows to receive their refunds.

Eddie Cantor, Johnny Dooley, Gus Van, Joe Schenck and Phil Dwyer were the players who had walked out on the Follies. Although the management protested that the actors had not notified it of their intention not to play, Eddie Cantor declared that he had gone to the theater at 7:15 and had informed the management then that he would not play, and that all the principals had put in an appearance, although they had declined to go on.

"After the injunction was set aside, my conscience would not allow me to play," said Cantor. "My duty is to stand by the actors and see that justice is done. I am very fond of Mr. Ziegfeld, and enjoyed working for him, but now that he has aligned himself with the Producing Managers' Association, we are going to align ourselves with the actors." *

About twenty of "The Follies" chorus girls joined the group of stars and waded through the rain to Strike Headquarters to report the closing of the New Amsterdam. They were received with a hilarious joy which rivaled the demonstration accorded the "Lightnin' " delegation when it had inaugurated the strike.

* *New York Times*, August 14, 1919.

Chapter XI

THE WINTER GARDEN SUIT

The Winter Garden suit for half a million dollars against the officers and nearly two hundred members of the Actors' Equity Association, came up for trial on Thursday, August 14th, before Federal Judge A. N. Hand, in United States District Court.

For the defendant actors and their officers almost a dozen attorneys were on hand to argue their cases, and were quite ready to proceed. But Bainbridge Colby and William Klein, representing the Shuberts, asked for an extension of time. They claimed that United States Marshal Thomas D. McCarthy and his assistants had not been able to serve all of those sought with the necessary papers. To this the Equity attorneys interposed no objection and the hearing was postponed until August 21.[1]

From this session the managers rushed into the court room across the street, over which Supreme Court Justice Richard P. Lydon presided, and obtained a waterproof, air-tight injunction, guaranteed against strikes and walkouts, to insure the opening of "Those Who Walk in Darkness" which was scheduled to see the light at the Forty-Eighth Street Theatre that night. All the holes in previous injunctions and restraining orders, by means of which actors had managed to show their sympathy with their Association, were caulked in this document. As far as the managers could see, this was an injunction which covered every loophole conceivable.

While Equity had done very well in keeping its position before its members and the public, through the publicity bureaus housed in the Algonquin Hotel and at Strike Headquarters, there had been decided handicaps in this method of keeping the general membership of the Association informed, particularly with regard to general strike plans and policies. A general meeting was held at the Hotel Astor this afternoon, at which such matters were presented.

For thirty minutes preceding the meeting Broadway at Times Square was almost blocked to traffic.

The ovation which greeted Francis Wilson as he made his appearance on the platform all by himself, lasted five minutes and was stemmed only by his appeal for quiet that the speakers might be heard.

The legal end of the managers' argument was disposed of at the outset by Dudley Field Malone and W. B. Rubin, the latter of whom said: "The managers have spent $50,000 to quote excerpts from decisions which have been dead since 1914." (The Danbury Hatters' Case.) [2]

THE STAGE HANDS SET TO STRIKE

The big thrill was the momentous announcement of Charles C. Shay that:

"By the unanimous vote of the International Alliance of Theatrical Stage Employes, I have been authorized to call a strike of the Stage Hands and Motion Picture Operators of the United States and Canada, at any time in my judgment that I deem it necessary, providing that all efforts for settlement have been tried without avail.

"We have received our orders that at the proper time—the time that you think fit—we intend to strike, if it busts the organization. There will probably be a conference. I hope there will be. I hope our amicable relations with the managers will continue, but if this is to be our rock of destruction, I can't think of a better rock to be destroyed on.

"The managers are betting 95 per cent on a color that I don't believe exists in the actor. You are not going to lose, but if you do go down to defeat you will have the stage hands with you, and we'll stick together as long as God lets us live." *

Shay was followed by Thomas Gamble, who pledged the backing of the musicians, because he declared that his organization knew Equity was absolutely in the right in its contentions. "And when the Musicians join in," he added firmly, "there'll be a grand symphony."

* *New York Morning World,* August 15, 1919.

Ethel Barrymore made the shortest speech of the afternoon. "All my family is with you heart and soul," she said.

At this point in the meeting the Presiding Officer announced that he was going to call on an actor of whom he said:

"Success came to him late in life, but just when that success came to him, he did not hesitate to jeopardize it to come to the aid of his fellows of the stage."

Frank Bacon, the actor to whom Wilson had referred, was not on the stage with the rest of the speakers. As he rose from his place in the audience and made his way to the platform, the room rang with the cheers of his fellow actors.

"I'm an actor, author and manager," Bacon began, "but when this strike began my wife said to me: 'We'll stick to our own people. I can still cook on a one-burner coal oil stove, if necessary.'

"So we're sticking. I'm liable to be sold down the river for talking like this, but if I am, Bacon will bring a higher price than ever before. Don't give up. Stick! God bless you." *

Marie Dressler also spoke, and then Hugh Frayne, addressing his fellow trade unionists, said:

"The moment the word comes from you that you need help, I can state authoritatively that you have 4,000,000 trade unionists of the American Federation of Labor at your back, and they will back you with all the strength and encouragement and aid needed to bring victory to your cause.

"The managers are resorting to the use of strong arm men to intimidate your pickets, I understand. Don't let them worry you any more than the law suits or injunctions. There is an easy way of handling both situations." †

STRONG ARM STUFF

Most of Mr. Frayne's audience was unaware that the Equity Council, shortly after the calling of the strike and the first use of pickets, had been approached by a man who declared himself the leader of a "mob" or gang.

"The managers want me and the boys to go after your pickets,"

* *New York Tribune*, August 15, 1919.
† *Variety Daily Bulletin*, No. 6, August 15, 1919.

he declared, "and they'll pay me what I want to do it. But if I can get it from you I'd rather work for the actors."

And before the Council could ask what he meant to do, he volunteered:

"It's easy. See? We got these dolls," and he hauled a couple of innocuous-looking Kewpie Dolls from under his arm. "We go to the lobby of the theayter. Any guy who tries to buy seats, we'll break an arm or a leg, see?"

The apparently harmless doll proved to be a vicious weapon of iron with a convenient grip at the base concealed by its clothing, and a sharp edge.

"Break a guy's jaw, or his arm, easy as anything." The gang leader confided. "Well, how about it?"

Equity had declined that offer of help, but the possibility of its acceptance by the managers had been called to the attention of Labor, and the Federation was not taking any chances of its use against Equity by any irresponsible opponent in the heat of the conflict. Whether or not the warning was sufficient, or the managers decided not to employ it, or it was purely an invention that they had ever intended doing so, no attacks of such a nature were made upon any Equity picket during the course of the strike.

De Wolf Hopper greatly heartened the audience when he related that an author whom he declined to name, but who, he asserted, had access to the innermost councils of the managers, had reported that the Shuberts were already in great distress over the losses incurred and the prospect of greater losses to come.

"Lee Shubert was walking up and down in his office and kept telling the others: 'We must do something. I'm told by my backers to go ahead and forfeit my $10,000 and open up my theatres.'" *

This statement literally stopped the show.

The début of the Actors' Equity Association as a producing organization was announced by Earle Boothe, but recently a Lieutenant-Colonel in the United States Army. Boothe reported that that morning a lease had been signed for the Lexington Avenue Opera House, with George D. Grundy, its owner.

"We will have a bill that will run for a week, beginning next Monday night," Boothe declared. "Eight performances, and at

* *New York Tribune*, August 15, 1919.

the end of that week we will change the bill. We will change it every week. Our contract for the theatre runs until October. If we need it after that I guess we can get it. Mr. Grundy signed the contract with us in the face of objections and obstacles placed by the Producing Managers' Association.

"Now, then, our bill will be an all star affair. These artists will appear. Ethel Barrymore," and then with an ovation for each name he completed the list, "Lillian Russell, Marie Dressler, Pearl White, Lionel Barrymore, De Wolf Hopper, Eddie Cantor, Frank Tinney, Joseph Santley, Ivy Sawyer, Barney Bernard, James J. Corbett, Ed Wynn, Conway Tearle, and others."

It was announced that the top prices for these shows would be $2 and that not a single ticket would be turned over to speculators.

"Tell your friends not to buy tickets of speculators," Boothe urged the meeting. "Get them at the box office. Every dime of the money will go to the Equity Strike Fund."

In connection with these productions at the Lexington Avenue Opera House a six page program with advertising confined to members of the Actors' Equity Association had been entrusted to Ed Wynn. Neither the public nor the merchants would be appealed to for funds. Three thousand four hundred dollars was collected for this purpose before the meeting was adjourned.[8]

To advertise the opening, and to indicate the strength of the organization, a parade was scheduled for Monday, in charge of Everett Butterfield, formerly a Captain in the A.E.F. Robert Emmett Keane was named as the Chairman of the Parade Committee.

And, in case the Lexington Avenue Opera House should prove inadequate to take care of all the Equity productions, Joseph Barondess, as representative of the Hebrew Actors' Union, assured Equity that there were three theatres on the East Side whenever they were wanted. And so the first general meeting called during the strike came to an end.

While this meeting was in progress members of the newly formed Chorus Equity Association had organized expeditions to enlist public support. One of these recruiting parties called on Mayor John F. Hylan at the City Hall. The Mayor sent word

that he was engaged, and the speeches that were intended for him were made to a crowd that quickly gathered.

Ethel Sadler spoke from the pedestal of the statue of Nathan Hale, then directly in front of the Mayor's windows, while Violette Hazel commandeered a trash cart, and with the assistance of the sympathetic street sweeper argued the actors' cause from its top.[4]

Then the Chorus girls hustled back for their own meeting which followed that of Equity. At this meeting the new Constitution and By-laws of the Chorus Equity Association were read and ratified.

Marie Dressler was in the chair during the first part of the meeting, but was called away later in the afternoon, and her place was filled by Edith Hallor, who had led the walkout of the chorus from the Ziegfeld Follies. The temper of the meeting was indicated by one speaker who proclaimed:

"If actors and actresses can rehearse twelve weeks without pay, what is to prevent their remaining on strike twelve weeks without pay?" *

On the opening night of the strike David Belasco had suggested that the managers "starve the actors out." The intervening week had brought a change in his attitude. Now it was:

"Abhorring each other, how can we think we are going to succeed? We can not. Ours is a profession of intense and sympathetic temperamentality, less tangible than a dream; highly strung and emotional, the dearest and best and most bohemian-like people in the world, all of whom would give his or her life blood to any just cause. Why not do the same for each other.

"It breaks my heart to see the boys and girls of our great profession fighting like a mob. We are artists, first, last and always and we must have the freedom to do our work in the same spirit. We cannot coerce their individuality nor set to rules their temperament, their emotion, their brains. They must be free and independent and individual as the painter, the poet or the novelist.

"If this condition cannot continue, then I shall never again produce a play. If we cannot go on in the unfettered way, then let us go and be honored business men and honest laborers." †

* *Billboard, Special Supplement No. 2,* August 16, 1919.
† *New York Tribune,* August 15, 1919.

At this point it became known that the concrete evidence of good will displayed by the organized merchants along Forty-Fifth Street in offering special prices to Equity members had had an echo in the hearts of the unorganized landladies of rooming houses in the side streets running off Broadway in the Thirties, Forties and Fifties. Word was passed around among the striking chorus girls that many landladies had volunteered to let the matter of room rent slide until the girls returned to work again.

Encouraged by the postponement of the Shubert suits the pickets made determined though unsuccessful drives upon the Midnight Shows running on the New Amsterdam and Century Roofs. William and Gordon Dooley who had joined Equity during the past week only to resign again, were surrounded as they entered the stage door, in an effort to persuade them to reconsider their resignation. They refused to do so, and the show went on.[5]

Behind a barrier of injunction proceedings "Those Who Walk in Darkness" made its début at the Forty-Eighth Street Theatre. Equity did not try to halt the opening or to picket the theatre. Score a decided gain for the managers.

COHAN TURNS DOWN THE FRIARS

There was a great parade of Friars from the Monastery to the stage door of the Cohan and Harris Theatre. Preceded by four mounted policemen and a Friar page carrying an American flag, and led by former Police Commissioner Dougherty, nearly four hundred Friars marched to urge their Abbot, George M. Cohan, to withdraw the resignation he had announced the night before.

They filed out onto the stage and deployed before Cohan's entrance from his dressing room. The audience already in the theatre did not know of the drama going on behind the curtain. Cohan was in a belligerent mood, and took the offensive before John J. Gleason could launch himself into his speech.

"It's no use your talking," he broke in, facing his fellow club members with his chin up, head thrust forward and cigar tilted at an aggressive angle. "I know what you're going to say, so you needn't say it. I'm not a speaker, and I can't talk to you myself, but I can feel, I want you all to know that, and that I'm feeling this very deeply.

"I consider this a very wonderful compliment—a very wonderful thing you fellows have done. But I want you to know that I'm with my associates, the friends who have helped me to get to the position I've got today.

" 'We're in for a fight,' he said, according to the *New York Morning Sun* the next morning. 'It seems a very bitter fight. I'm going to fight everybody who's against me. I'm with the managers not because I think they're right, but because I know they're right.' "

"Thereupon the gathering, abruptly melted away, while 'The Royal Vagabond' performance was started, having been held back fifteen minutes." *

THE RESPONSE TO SOTHERN'S CALL

The widely advertised meeting called by E. H. Sothern to settle the fight, convened on Friday afternoon, August 15, in the Biltmore Hotel.

It was called to order by Howard Kyle, who immediately turned it over to Sothern.

"I have called this meeting with a few veterans of the stage to discuss a tragic situation," declared Sothern. "Personally I wish to state that when I suggested that some of the members of the profession get together and form an organization of mediation between the producers and the members of the Actors' Equity Association, it was purely in the interest of harmony, but it seems to have had the opposite effect, and I have been placed in the position of attempting to break up the Actors' Equity Association. That was not my intention, so I have asked you to come here to discuss the situation.

"It has occurred to me that perhaps a committee might be appointed by you to go to the Producers' Association and ask them just what sort of a contract they are willing to make, that it may be published, and correct some of the misstatements that have gone to the press." †

The appointment of such a committee was immediately authorized, and with little canvassing in the small assemblage, Sothern,

* *New York Morning Sun*, August 15, 1919.
† *New York Herald*, August 16, 1919.

as Chairman, Leo Ditrichstein, Minnie Maddern Fiske, Howard Kyle, Lowell Sherman and Augustus Thomas were named.

They were only authorized to visit the managers, obtain the best terms the latter were willing to grant the actors, and to publish those terms. As a matter of fact Sothern admitted at the time that he did not see just what else the committee could do.

But for all Sothern's desire for neutrality the real sentiment of the meeting was not long in doubt.

Coburn advanced the theory which was later elaborated by Kyle that it was only by grace of the managers that the Actors' Equity Association had been brought into existence. His conclusion was:

"Do not destroy the Actors' Equity Association." And then—"But the present strike is destroying our calling. If the Actors' Equity Association has done a wrong, why should anyone stay with it?" *

However that was meant, the speaker could not but have known that if Equity should lose the fight it must infallibly be destroyed. In the end either the Producing Managers' Association or the Actors' Equity Association had to go under. Their aims were so divergent as to be practically mutually exclusive. And any aid, comfort or assistance that Coburn was giving now, or might later give to the managers was by just so much an effort to destroy Equity, and all that Equity had achieved. Nor could kind words make that effort anything else.

"If twenty members of the Equity should get together," said Kyle, "they could call a special meeting in which one hundred members would be considered a quorum. If the members should, on reflection, see that a wrong had been done they could undo it by vote."

This suggestion, Sothern thought, was the most fruitful that had come through the conference.*

But Equity by this time had nearly eight thousand members. It was suggested that twenty of them, one quarter of one per cent, might call a meeting at which one hundred members or one and one-fourth per cent of the membership, might be considered a quorum, which by its vote could undo anything it construed as

* *New York Morning Telegraph*, August 16, 1919.

a wrong. In an organization of such size it was not inconceivable that there could be found more than fifty interested, subservient or malcontent actors, and in Kyle's scheme, the votes of fifty-one such could overweigh the remaining seventy-nine hundred odd.

At this point the meeting broke up, and the committee selected by it repaired to the managerial headquarters of Cohan and Harris, where they were closeted with the managers for nearly two hours.[6]

HOW THE MANAGERS RECEIVED THE OFFER

Arthur Hopkins, for the managers, in a release following the conference with Sothern's committee, once more indicated that the managers' sole remaining ground was an unwillingness to recognize Equity.

"Mr. Sothern's committee was advised that the Producing Managers' Association was prepared to offer any group of actors who were in a position to fulfill individual contracts without danger of interference, a contract as advantageous to the actor as the former Actors' Equity contract, under which the actor has been working for the past three years, with the additional advantage to the actor of including a clause by which eight performances would constitute a week, this meaning that the actor would be paid for special holiday matinées, Sunday nights and any performances in excess of eight performances a week.

"The Producing Managers are prepared to bind their members to fulfillment of this contract and are devising ways for the enforcement of contracts that would offer the actor full protection."

He asserted that the managers were willing, even anxious, to have all disputes which might arise settled by a permanent board of arbitration consisting of three managers, appointed by the managers, three actors elected by the actors, and an umpire, preferably a justice of the State Supreme Court.

That sounded fair enough until the newspaper men asked whether actors chosen by the Actors' Equity Association would be acceptable to the managers as members of that board.

"No," replied Mr. Hopkins.*

The cat was out of the bag.

While the meeting at the Biltmore Hotel had been in progress, locals of the International Alliance of Theatrical Stage Employes all over the country had been wiring in their strike vote to their own headquarters. The Los Angeles local wrapped their message in a $1,000 check for the actors' strike fund.[7] Shay admitted that the stage hands were preparing to walk out in sympathy with the actors, leaving the scenery to shift for itself, but would not say when the word would be given.

UNTERMYER BACKS EQUITY ON CLAUSE 18

Immediately upon the appearance of the Burkan letter, Gillmore and Turner had submitted the matter to Samuel Untermyer, one of the outstanding legal figures of the country, for his interpretation of the contested clauses.

Untermyer now replied in two letters which were received at Equity Headquarters within a few hours of each other. In one letter he accepted Equity's invitation to assist in its defense, and gave a general résumé of the situation. In the other he made a close and reasoned analysis of Burkan's charges and the legal justification of Equity's action.

"Upon the conceded facts, as I understand them," wrote Untermyer, "and more particularly from a reading of the peculiar text of the contract, the construction of which must lie at the foundation of any coherent opinion, as to the rights and obligations of the parties, and to which Mr. Burkan has strangely failed to refer, I have reached the conclusion that the actors were justified in refusing to further proceed in the performance of their contracts and that the claims for damages for the alleged breach of those contracts cannot, therefore, be sustained.

"Upon this state of facts the question is presented as to whether the explicit refusal of the Producing Managers' Association either to recognize the Actors' Association in its relation to existing contracts or its right to select an arbitrator and the refusal to arbitrate any of these disputed questions constituted an anticipatory breach of the contract.

* *Variety Daily Bulletin*, No. 7, August 16, 1919.

"In my opinion this unwarranted attitude of the Managers fully justified the action taken by the members of the Actors' Association. The Managers were bound by their contract to recognize the Actors' Association at least for the balance of the terms of the contracts in which they had expressly agreed that the Actors' Association should represent its membership. When the Managers and the Actors entered into these contracts they were fully aware of the obligation that had been assumed by each member of the Actors' Association in return for the valuable right of collective bargaining with the Managers that they had secured through the Association. The action of the Managers amounted to a complete repudiation of Article 18 of the contract and to a declaration that the course of procedure for the settlement of disputes that had theretofore been followed would not be continued during the remainder of the term of the contract. The Managers, by their attitude, not only struck Paragraph 18 from the contract without the consent of the other party to it, but they went very much further in repudiating the agency that they had throughout conceded.

"This conclusion renders unnecessary a discussion of the authorities referred to in Mr. Burkan's published opinion. I may, however, in passing say as to these authorities that, independent of the considerations above set forth, they have no application to the case here under consideration. Whilst the Managers are loudly contending that their contracts are made individually with each Actor and not with the Association, they are at the same time advancing what seems to me an inconsistent contention, that every member of the Actors' Equity Association is responsible in damages for the alleged breach by one member of his contract with another.

"The Actor has simply refused to work. Other actors in the same play have refused to work for the same Manager. Assuming, which is denied, that the failure of the contracting actor to work did not constitute an excusable breach of his contract, the effort here is to render such Actor liable not only for any damages which the Manager may sustain, by reason of his failure to work, but also by reason of the failure of other actors in the same company to work. This contention is based on the theory that the members conspired together to break all their contracts and that, therefore, each member is liable not only for the damages sustained through the contract he is said to have broken, but also through the damages sustained through the breaking of other contracts.

"In the famous Danbury Hatters' Case the Union members not only refused to work, which they admittedly had the right to do, but proceeded, by concerted action, to boycott the product of their former

employer, and they were held liable not for striking or refusing to work and not for breaking their contracts since they had none, but for conspiring to destroy the business of their former employer because he would not accede to their demands.

"Time and space do not permit of an elaborate analysis of the authorities. Suffice it to say, for the moment, that I do not regard any of them as applicable to the case under consideration.

"There is an element of the grotesque in the character and extent of the litigation with which the courts have been suddenly flooded for the apparent purpose of intimidating the members from asserting their rights. I find nothing tenable or substantial in the suits that have been brought to my attention."

That night a cloudburst broke over Broadway about theatre time, which soaked but did not subdue the pickets. Neither did it prevent the reopening of "At 9:45" at the Playhouse, with William A. Brady, its producer, in the rôle of a butler, and another manager, Charles Hopkins, in the cast. Following, as it did, the successful opening of "Those Who Walk in Darkness," at the Forty-Eighth Street Theatre, the night before, and reducing the number of closed houses to eleven, it was decidedly heartening to the managers.

Chapter XII

THE STAGE HANDS AND MUSICIANS WALK OUT

This feeling of complacence with themselves and their position was not long enjoyed by the managers. In this tactical crisis Equity's Labor allies were hurled into the conflict.

While the matinée crowds filled the theatres on Saturday afternoon, August 16, Charles C. Shay and Thomas Gamble, each with the strike vote of his organization in his pocket, called on the Producing Managers' Association, in the Cohan and Harris Theatre Building, in a final effort to bring about a meeting between representatives of the managers and representatives of Equity.

They were met by Sam. H. Harris, Belasco, Brady, Cohan, Lee Shubert, Coburn, Wanger, Morosco, Ziegfeld, Arthur Hopkins, Hammerstein, Marc Klaw, Herndon, Aarons, Savage and Dillingham, of the Producing Managers' Association.[1]

Although the meeting lasted nearly two hours there was but one question involved. Shay and Gamble insisted that the managers recognize Equity as the representative of the actor and, at least, meet a committee from Equity to discuss the possible terms of a settlement. Nothing was said as to what those terms should be, but it was clearly pointed out that it was intolerable that the managers should refuse to discuss their differences with a body with which both the stage hands and the musicians were affiliated.

The managers promised to consider the proposition, and after setting a time limit within which word must be received, Shay and Gamble withdrew.

About six-forty a telephone call to the Headquarters of the I.A.T.S.E., at 107 West 46th Street, informed Shay that the managers had declined to meet a committee from Equity to discuss a settlement, and that the letter containing the managers' reply was on the way.[2]

There was no time to lose, for the crews would soon be gathering at the theatres. Delegates were thereupon dispatched im-

mediately to the three houses against which action was to be taken, and half an hour later the stage crews of the Century, Century Roof, Knickerbocker and Cohan and Harris Theatres had walked out.

Again capacity houses were forced to stand in line before darkened theatres to receive refunds on the money paid in anticipation of entertainment, and once more Broadway and Forty-Second Street took on the semblance of Election Night as the strikers and their sympathizers celebrated the heaviest blow since the calling of the strike.

The productions affected were: "Chu Chin Chow," "The Midnight Whirl," "Listen Lester," and "The Royal Vagabond." Against these the managers were able to point to the successful opening of "East is West" with Fay Bainter.

The letter from the Producing Managers' Association reached Shay's office about seven-thirty. Because that official had already acted on reliable information as to its contents, the managers charged him with bad faith in the matter. Kingsley claimed that:

"Mr. Shay asked us to write him a letter at the conclusion of our conference, which we agreed to do. Before our letter could reach him by messenger, he had called out his men from the theatres designated by his organization. The messenger reported that he delivered the letter to the headquarters of the union at seven-thirty, which was half an hour after Mr. Shay called out his union and the musicians' union." *

The letter itself, irrespective of the minute of its receipt, indicated that Shay had been correctly informed as to its contents, and that he was entirely justified in issuing the strike order.

It expressed tactfully, but very definitely, the refusal of the managers to accept the suggestion of the stage hands and musicians to confer with Equity. The disclaimer of the Actors' Association of any intention of asking for a closed shop was dismissed with polite disbelief (in view of the present alleged contract breaking on the part of the actors who had walked out).

That the managers knew this letter meant a break with their mechanical staffs and musicians, whether that night or the next, is indicated by one paragraph of their letter which read:

* *New York Times*, August 17, 1919.

"We realize that this step may mean a severance of relations between us and our stage crews and musicians. We regret this deeply and yet there is consolation in the fact that our fight is your fight, and that if we succeed in saving the theater from being throttled, it will be a guarantee of long future employment for your people."

But the entry of the stage hands and musicians, though the biggest event of the day, was by no means the only interesting one. The opening of Supreme Court Justice Lydon's courtroom door found a legal delegation from the Shubert office on the threshold praying for further protection for "Those Who Walk in Darkness." It was alleged that Equity was ignoring the injunction already granted by Justice Lydon, and was attempting to tamper with the cast, and in its picketing to cast unjust aspersions upon the play and the players.

Justice Lydon appointed Phoenix Ingraham as referee in the dispute and ordered Frank Gillmore, Bruce McRae, and Richard A. Purdy, individually and as Officers of the Association, to appear before Ingraham on Monday next, with all the records of the Association for examination as to the Shubert charges.

With the addition of these latest court orders Turner admitted that the stack of legal papers on his desk was already three feet high, and that they were still coming.[8]

THE END OF SOTHERN'S COMMITTEE

Sothern's committee, after its visit to the Producing Managers' Association, where it had received the offer of everything for which the striking actors had asked except recognition of the Actors' Equity Association, now lapsed into inactivity. Newspaper men who inquired as to whether Sothern meant to lay this contract before Equity were told:

"We shall not call upon the Actors' Equity Association, as has been reported. The proposals which the managers made to us are to be submitted to Equity today, and it will then be for the Equity to show whether or not it is disposed likewise to make concessions. That is all we can do in the matter. We have no intention to form another Association of actors in opposition to the Equity." *

* *New York Evening Post,* August 16, 1919.

But the managers were not in the mood to offer anything to Equity that day, and did not make the move predicted by Sothern. His peace program had come to a full stop.

At Sothern's meeting the day before, Louis Mann had announced that: "I am quite satisfied with the action of the managers in refusing to deal with the Equity." That utterance would hardly argue a judicial frame of mind on his part, yet he now came forward with a plan to settle the present difficulties and to prevent others arising in the future. Briefly it was to put a manager on the Equity Council, and an actor on the Council of the Producing Managers' Association. For those posts Mann suggested George M. Cohan and Bruce McRae, respectively.*

When this proposition was placed before Cohan as he was making up for the matinée, or final performance of "The Royal Vagabond," he declined the honor, but told Mann:

"I'll put $100,000 on any table around which you'll gather a representative organization of actors, and I'll give up the rest of my life to such an organization—but it can't be the Actors' Equity Association." *

That remark, and the promises it held out, may have been the vital spark which kept the committee of thirty-four alive until the formation of the Actors' Fidelity League.

MR. KLAW RISES TO OBJECT

In the announcements which had emanated from the managerial offices of Klaw and Erlanger up to this point, it had been Erlanger who had done the announcing. But Marc Klaw, who had been out of town at the time of the calling of the strike, now returned, and proclaimed in no uncertain terms that both Samuel Untermyer and the Actors' Equity Association had been talking through their respective hats when they asserted that the Producing Managers' Association had broken its contracts by refusing to arbitrate Equity's claim to represent the actors. For, said Klaw, Equity's contracts were with the United Managers' Protective Association, an organization entirely separate and distinct from the P.M.A., and the older organization, of which he was President, had never refused to arbitrate for the simple reason that it

* *New York Morning Sun*, August 17, 1919.

had never been asked to do so. It was his opinion that Equity had joined the American Federation of Labor for no other purpose than to strike.

There was more of it, quite a lot more, but that was the nub of it.*

The Equity contract *had* been signed with the United Managers' Protective Association in the fall of 1917, but during the time that the U.M.P.A. remained a live and vital organization the members of it had evinced a decided unwillingness to issue the contract as they had promised.

And when, in the winter of 1918-19, practically every producing manager in New York City had withdrawn from the United Managers' Protective Association, to reunite under the banner of the Producing Managers' Association, Klaw's organization had been left a mere shell. The producers with whom the contract dispute was, were all in the camp of the Producing Managers' Association. Klaw and Erlanger were themselves members of the Producing Managers' Association, and it was that body which flatly refused to recognize Equity.

In other words the same managers who as Klaw's henchmen had promised to allow Equity to represent the actors, were now, as Harris' followers, denying Equity's right to do so. The uniform they wore was not of great moment, or the device on their banners; the forces were the same.

There were a great many persons who could not get into the meetings that night, more, probably, than attended them. Very many of the disappointed ones made up for it to some extent by picketing the opening of "East is West" at the Astor Theatre.

By this time the art of being conspicuous while picketing had been developed to a high pitch. The resultant congestion before the Astor Theatre, therefore, was such as to call for the services of a dozen police reserves from the West Forty-Seventh Street Station.

Even with the picketing activities there were still numbers who celebrated the action of the stage hands and musicians in the closing of four productions, by gathering in the street before Strike Headquarters. One of the outcomes of this celebration

* *New York Morning Telegraph*, August 17, 1919.

was an impromptu glee club of several hundred voices which purveyed songs written specially for the occasion.

One of these, rendered doubly acceptable, by the fact that it was based on George M. Cohan's war song, "Over There," ran:

"Over fair, over fair,
We have been, we have been over fair.
But now things are humming
And the time is coming
When with Labor we'll be chumming
Everywhere.
So beware, have a care,
Just be fair, on the square, everywhere.
For we are striking, yes, we are striking,
And we won't come back till the managers are fair." *

To the throng thus celebrating came the word from Chicago that the cast of "Up in Mabel's Room," led by Walter Jones and Hazel Dawn, had walked off the stage at curtain time, leaving behind them a full house and a frantic management. And then there was some ground and lofty excitement.

The managers sat late considering these sights and sounds and portents, and the result of their cogitations as announced by Sam Harris was:

"We are going to fight." †

THE PROGRAM FOR THE CHORUS

Both sides rested over Sunday, August 17, and everyone made use of the breathing spell, the first since the calling of the strike, to push plans for the fight with renewed vigor in the new week.

The demands of the Chorus Equity Association, which had been formulated in consultation with Equity leaders were now issued by Marie Dressler.

They included a minimum salary of $30 a week in New York, and $35 on the road, to be based on an eight performance week with payment to be pro rata for performances in excess of eight. The chorus people would give four weeks of free rehearsal, but demanded half pay for the next two weeks, and full salary from

* *Variety Daily Bulletin*, No. 9, August 19, 1919.
† *New York Herald*, August 17, 1919.

that time on. The managers would be required to pay for Pullman berths for the Chorus on overnight jumps.[5]

All three rings of the Broadway Circus burst into life Monday, August 18, to make up for the inactivity of the day before. The entertainment opened with a grand parade of legal, managerial and acting talent into Justice Peter A. Hendrick's Courtroom.

Assigned for trial that morning were suits brought by the Shubert Theatrical Company, Henry W. Savage, Inc., the Charles Emerson Cook Corporation, and Winchell Smith, John Golden and others.

Justice Hendrick was not on the bench, but a very familiar legal figure was. Justice Lydon, before whom many of the legal evolutions of the fight were performed, greeted the litigants with the information that Justice Hendrick was busy settling another strike, that which had developed on the subway and elevated lines of the Interborough Rapid Transit Company. Justice Lydon thereupon ordered an adjournment of all these suits until Justice Hendrick should be available, continuing until that time the temporary injunctions he had issued himself.

And Justice Lydon issued an injunction restraining Ed. Wynn from appearing on the stage of the Lexington Avenue Opera House that night in the first of the Equity shows. The grounds on which this injunction was issued were that Wynn had a contract giving his exclusive services to the Shuberts, in whose "Gaieties of 1919" he had been appearing in those far-off times two weeks ago.

This was merely a test case, Will Page explained for the managers. "We could have brought similar injunctions against almost everyone in the show," he added, "but one will be sufficient to score our point and to prove the validity of our contract. We have no desire to break up the show." *

With actors and managers pounding away at each other in this fashion, authors' royalties were rapidly approaching the absolute zero. Appalled by this prospect the dramatists had once before attempted to bring the contestants together around a council table; but the offer of mediation had drawn a brusque refusal from Arthur Hopkins.

The dramatists, however, could not afford to accept that answer

* *New York Clipper*, August 20, 1919.

as final. And yet the managers would not even consent to confer with Equity, as such. In this dilemma the authors decided to hold a meeting at the Hotel Astor the next day at which members of the Producing Managers' Association, who were dramatists, and members of the Actors' Equity Association, who were dramatists, should appear, as dramatists, and not as members of their warring Associations to present their sides of the dispute. To prevent friction and recrimination in the meeting it was decided that the managerial and Equity delegations should be heard separately.

THE PARADE

Ever since the idea had been broached, Equity had been counting heavily on the appeal to public sympathy in a parade of the massed forces of the theatre down its own Broadway; stars and chorus girls, stage hands and leading ladies, Dear Old Mothers and the musicians who played softly while they wept—neck and neck, if not arm in arm—it couldn't go wrong!

But Equity's luck, proverbial most of the time, was off duty this once. About noon the clouds which had been threatening all day began to spit rain, and by the time the marchers were assembling a real downpour had developed.

Given a better break from the weather it is probable that this would have ranked with the historic parades of Broadway, for in spite of the rain there were nearly two thousand marchers in line and from Columbus Circle to Madison Square the street was lined with a raincoated, umbrellaed crowd curious to see what the actors had to show.

There was plenty to see from Frank Bacon, swinging along at the head of the contingent from "Lightnin'" to the uniformed groups of overseas veterans; from Marie Dressler's bodyguard of chorus girls to the automobiles with wounded actors which brought up the rear; and bands, and stage hands bearing a banner:

"NATIONS ARBITRATE, THOUGH MANAGERS WON'T"

and noise and enthusiasm—lots of it, to make up for the gray, wet day.

Photograph by International Newsreel.

The Chorus contingent of the parade just before the marchers got under way. In the center Marie Dressler is holding a banner while Ethel Barrymore points to the motto and Hilda Spong, beside her, cheers. At the left are Lillian Reading and May Rossmore.

Photograph by International Newsreel.

The Stage Hands' Section of the Equity New York Parade passing Columbus Circle on the march down Broadway. Despite the hard downpour there was a good audience on the sidewalks.

The parade had its moments. There was, for instance, the fact that Florence Edney, the sole representative of her company, attempted to give the impression that she was regally unconscious of the fact that the banner she bore carried the device:

"TOO MANY HUSBANDS"

And there was that sign which hung from the office window of an Equity partisan in the early Fifties which advertised:

"WANTED
ELEVATOR OPERATOR
GEORGE M. COHAN
PREFERRED"

For the rest, when you've seen one parade you've seen them all. But as a demonstration of Equity's caliber and the devotion and discipline of its members this was a pretty good showing.

A CONTRIBUTION FROM MOTION PICTURE ACTORS

That night, in Los Angeles, five hundred motion picture actors and actresses gathered in the Hotel Hollywood, to register their loyalty to Equity and to testify to it by their subscriptions.

The meeting, of which George Fawcett was chairman, was addressed by William Courtleigh, Bert Lytell, Milton Sills, Fred Niblo and Frank Keenan.

Courtleigh, who had been in charge of the collection of campaign funds, announced that $7,300 had been subscribed, of which $5,000 had already been telegraphed East.

The arrival of this first contribution had come at a critical point in Equity's campaign. A week before, when the Shuberts had instituted their suit through the Winter Garden Company, the attorneys of the managers had also sought to tie up Equity funds in the Hudson Trust Company at Broadway and Forty-First Street.

There was great perturbation at Equity Headquarters when a managerial leak spilled this news, for Richard A. Purdy, Equity's Treasurer, was away and it was uncertain as to whether a tem-

porary tie-up could have been avoided. This would have been a serious matter, for Equity was already spending more than $2,000 a day.

At this point a message from the Pacific Bank, at Seventh Avenue and Forty-Ninth Street, informed Gillmore that $5,000 had just been placed to his credit by wire, from California. Without word to anyone Gillmore doubled around the corner, drew the full amount, and salted it away in a depository known only to himself and Wilson. Equity, by that move, was assured of campaign funds for a couple of days, whatever happened to its official accounts.

This fund, however, was not drawn upon, for within a day or two Purdy was reached and had blocked any managerial move on the Equity war chest, which might have been contemplated. But the arrival of the California subscriptions materially eased the situation.

The war in New York went forward with no truce. The stage hands and musicians struck again and five of the few remaining opposition shows were shut down. Of those closed at this time several had been most objectionable to Equity. Holbrook Blinn, in "The Challenge," at the Selwyn Theatre, was stopped. "Those Who Walk in Darkness" which had been operating for four performances behind a smoke screen of injunctions, believed to be strike proof, also went down, to the delight of Equity partisans, and to the discomfiture of the Shuberts. "East is West," with Fay Bainter, had opened in the face of Equity objections on the Saturday night previous. Now, after one performance, it, too, retired to the store house. Finally there were the "Nine O'Clock Revue" and "The Midnight Whirl" which had been running on the New Amsterdam Roof. These Ziegfeld Dance-and-Dinner Shows likewise yielded up the ghost.

And with uneasiness in the hearts of the few managers whose shows were still playing on suffrance, William A. Brady announced between the first and second acts of "At 9:45," that if Equity won he would retire from producing for all time. He was the third to make this announcement, having been preceded by Belasco and Cohan.*

* *New York Times,* August 19, 1919.

Photograph by White Studio.

For the first number of the Equity Benefit at the Lexington Avenue Opera House the curtain rose on a bare stage where were assembled two hundred chorus men and girls from all the musical comedies in town. To the audience Marie Dressler (in the center) announced that, with the assistance of Kuy Kendall, she would teach the group a new set of steps in from six to sixteen minutes, though the managers habitually demanded from six to sixteen weeks of rehearsals. And well within that time limit the routine was mastered.

Chapter XIII

EQUITY PRESENTS—

While the evicted audiences were filing out into rainswept Times Square and its neighboring streets, the great Equity Benefit at the Lexington Avenue Opera House was swinging into being. In spite of the rain and the strike on the subway and elevated lines, every seat in the house had been sold hours before curtain time. By seven-thirty, when standing room sales had to be discontinued, more than five hundred standees had crowded into the old structure, filling it as it had not been filled since the days of Galli-Curci and the Chicago Opera Company.[1]

It was an Equity show from top to bottom. With the exception of stage hands and musicians, all the other posts were filled by actors. Box office and house staffs were both all Equity. Their service throughout the tenancy of the Association was earnest and faithful, and a great deal of the credit for the smoothness, precision, and comfort of the performances at the Lexington Avenue Opera House was due to their efforts.

The first number on the program was frankly propaganda. The rise of the curtain disclosed a stage set for rehearsal. It was filled with chorus girls and men, a hundred and fifty or more. It was further filled by Marie Dressler, who explained to the audience that although producers of musical shows habitually demanded from six to sixteen weeks to prepare their chorus numbers, she, with the assistance of Kuy Kendall, would teach this chorus a new set of steps in from six to sixteen minutes. And in order to guarantee that it was absolutely new to all of them, she would learn the steps herself, although she had not done step dancing for years.

In everything but the spirit of the performance it was a regulation rehearsal. Mistakes were made and corrected, and the desperate shame of the offender informed the audience that the mistake was genuine, and not feigned. Well within the time

limit named by Miss Dressler the chorus, its new number learned well enough for any Broadway production, went dancing off into the wings to the music of enthusiastic applause.

Then, with W. C. Fields as Master of Ceremonies, the first half of the program went forward with numbers by Joseph Santley and Ivy Sawyer, John Steel and Lt. Gitz-Rice, Charles Winninger, Eddie Cantor, Eddie Foy and his family, and was closed by a presentation of the second act of "The Lady of the Camellias" with Ethel and Lionel Barrymore, Conway Tearle, Doris Rankin, Florine Arnold, Charles Coghlan and Louise Mackintosh.

There was to have been an intermission with selections from the Equity orchestra led by Silvio Hein and Charles Prince, but the length of the program and the reception accorded it crowded out that part, the only omission of the evening.

In the second half of the program which went forward without a break there appeared Van and Schenck, John Charles Thomas, Pearl White and Frank Tinney.

Ed Wynn had been scheduled to make an appearance, but at the place in the program in which he would have gone on, a long figure unfolded, section by section, from an aisle seat in the third row.

"Ladies and Gentlemen," remarked Ed Wynn, "Justice Lydon has forbidden me to appear on the stage tonight. I am very sorry that this has occurred, but of course the orders of the Court must be obeyed. If I had been able to appear tonight I had in mind telling you a story—"

And the surprised and delighted audience was informed in minute detail just what Ed Wynn would have done if he had been allowed to go on. It was a twist to the situation which appealed tremendously, and received a great hand.

THE GRAND FINALE

The second and final piece of propaganda had been reserved for the finale. It had been conceived and written by Hassard Short and staged by him in conjunction with Percival Knight.

The stage again was bare. A crate of scenery stood in its center, and around this, crowding the stage until the great barn-like space was a sea of faces, sat the greatest all-star mob ever

seen on Broadway, the women with hair (they had it in those days), rippling down their backs.

Above, on the crate of scenery, Brandon Tynan declaimed this spirited oration, a paraphrase of Marc Antony's address to the Roman citizens at the funeral of Julius Cæsar.

THE MAN. Friends, Brothers, Sisters, Countrymen, lend me your ears; I come, not to bury Equity, but to praise him. The evil that men do lives after them, the good is oft interred with their bones; not so with Equity.

The noble managers have told you Equity is unjust. If it were so it was a grievous fault, and grievously shall we answer it. Here, without leave of the manager or his men (for the manager is an honorable man, so are they all, all honorable men), come I not to speak Equity's funeral, but at his birth. He is my friend, faithful and just to me, but the manager says he is unjust, and the manager is an honorable man!

Equity hath brought actors to the stage time and time again, not his own coffers to fill, but those of the poor and needy; when the poor have cried, Equity hath wept; Equity should be made of sterner stuff, yet the manager says Equity is unjust, and the manager is an honorable man.

You all do know that on this threshold Equity thrice presented him with request for hearing, and how thrice did he refuse. Was this justice? Yet the manager says Equity is unjust, and surely he is an honorable man.

Oh, judgment, art thou fled to brutish beasts, and have men lost their reason?

THE MOB. (*Moans.*)

THE MAN. I speak not to disprove what the manager spoke, but here am I to speak what I do know.

Here is a parchment with the seal of Equity. 'Tis the contract still unsigned.

THE MOB. Why is it unsigned? (*Murmurs of "Contract," "Managers," etc.*)

THE MAN. I will tell you why. Because the managers positively refuse to arbitrate. They refuse to meet us. They refuse to meet the men who have been your leaders, who are still your leaders.

THE MOB. Aye, aye. (*Cheers, etc.*)

THE MAN. Men who for over six years have devoted their time, money, love and energy to found our organization and raise it to the standard it is today, and, Brothers and Sisters, these are the men the managers refuse to meet. They say they can have no faith in them—that they are unjust. But the managers are honorable men.

THE MOB. Shame. (*Groans.*)

THE MAN. Oh, the pity, the sorrow, the heartaches, the misery of it. The young girl, the old woman, the boy, the man, trying to earn their living in a just and equitable way. They are human beings, and though they may be refused a hearing they stand for Equity. Though the darkness depresses, they stand for Equity. Though the pennies are starting to go, as the hour grows dimmer, they stand for Equity. Though, even if the Fates ordain it, they lose their homes, their hopes, their very existence, they stand for Equity.

(*During the latter part of this speech the lights were gradually lowered until, with the speaking of the last line, the stage was absolutely black. There was a rumble of thunder.*)

The warning.

THE MOB. The warning—the Fates—etc.

THE MAN. The warning, yes. For us? No—for them!

(*A tremendous crash of thunder and lightning which illuminated the uplifted faces and wide-flung hands of the mob.*)

Lightnin' has struck!

Here we are in our workshop, the theatre, our theatre, without scenery, makeup, with the eye of the public upon us. Now, Brothers, is the time to show your faces. Are you for the cause?

THE MOB. Yes, yes.

THE MAN. The cause that has been denied you?

THE MOB. Yes, yes.

THE MAN. Are you willing to stand up for your rights?

THE MOB. Yes, yes. (*The men all stand up.*)

THE MAN. Then, men, throw off your coats, roll up your sleeves and fight for the cause. (*Cries rise from the mob as the men shed their coats and roll up their sleeves.*) Sisters, always gentle, always sweet, tender even to those that hurt you, are you for the cause?

Photograph by White Studio.

The closing number of all the bills of the Equity Benefits during the strike was a parody of Marc Antony's oration over Cæsar, in "Julius Cæsar." In this, the first of them, Brandon Tynan delivered the oration to the greatest all star mob in the history of the theatre. The names of those who appeared in his support will be found in the Appendix, under Chapter XIII.

THE WOMEN. Yes, yes.
THE MAN. The cause that has been denied you?
THE WOMEN. Yes, yes.
THE MAN. Are you willing to stand up for your rights?
THE WOMEN. Yes, yes. (*They spring to their feet.*)
THE MAN. Then throw off the yoke, lift up your hands, and with your Brothers cry aloud for the cause, the one word that is next to all our hearts.
THE MOB. EQUITY! (*They wave their arms crying the word into the depths of the theater.*)
THE MAN. Behind us we have more than five million men and women. The ship of hope—The American Federation of Labor. (THE MOB *cheers and cheers.*)

The American Federation of Labor stands for only justice and Equity.

The Actors' Equity Association stands for only justice and Equity.

The managers say that Equity is not justice—and the managers are honorable men. (*Cries of "Shame," etc. Leaping from his platform* THE MAN *comes down to the footlights with outstretched arms.*)

Now, dear public, our great public, you have always stood for justice. You have always been just to us, and we have always tried to be just to you. Will you stand up and show that you are with us and join us in our cry of EQUITY! EQUITY!! EQUITY!!!*

The crowded house sprang to its feet, and as the mob on the stage threw back its head, stretched out its arms and thrilled to the cry of its faith, the audience joined in, tossing up its arms, mingling its shouts with the players, united with them for Equity.

LEGAL WARFARE

The legal fight which had been adjourned for twenty-four hours the day before was renewed before Justice Lydon on Tuesday, the nineteenth of August, as soon as Court convened. Tuttle, for the managers, was for pressing the cases at once,

* *New York Call,* August 24, 1919.

while the Equity lawyers endeavored to postpone the trials of the actions. Littleton and Sheffield pointed to the great number of defendants, and the inadvisability of attempting a defense before all the defendants were actually involved and the cases prepared. They asked for a week's adjournment, to enable them to get their cases in shape.

Justice Lydon had been plainly unsympathetic with the plea for delay. He now announced that if the counsel for the actors and managers could not reach an immediate agreement, he would order the motion to be marked ready for trial. This, of course, was playing directly into the managers' hands. They had only to sit tight and refuse to consent to any postponement, and the speedy trial they sought would be in their possession.

But when Harvey, for Equity's Officers, protested at this decision, and announced that while he had been retained to act for all those Officers who had been served, he would not care to say whether or not he would appear for those who might be served in the future, and asserted that he did not see any harm in the postponement sought, Justice Lydon interrupted him by saying:

"From the accounts appearing in the public press, and from my own observation, I know that this strike, which began more than a week ago, has developed into a riot."

"A riot?" echoed Harvey in amazement.

"Yes, a riot!" retorted the Justice, angrily. "Restraining orders have been issued by this court, and the managers claim that those orders have been violated, and that the violators of those orders have been guilty of contempt. If such a state of affairs can be proven punishment should be meted out to the offenders. This situation is developing more seriously every day.* The managers have some rights and these matters should be disposed of without delay." †

Further argument among the various attorneys as to the propriety of delay brought from Justice Lydon the warning that they should address the court, not each other, and a notice that the case would be adjourned until two o'clock, at which time, if no agreement had been reached, the arguments would be heard at once.

* *New York Morning Telegraph,* August 20, 1919.
† *New York Herald,* August 20, 1919.

During the recess a three day truce was arranged, but it was stipulated that the hearings on Friday morning, August 22, would be peremptory.[2]

WHEN THE DRAMATISTS SAT IN JUDGMENT

The conference between delegates of the managers, actors and playwrights took place in the afternoon, at the Hotel Astor. At four o'clock the Reception Committee, composed of James Forbes, Louis K. Anspacher and Avery Hopwood, ushered David Belasco, George Broadhurst, Arthur Hopkins and Winchell Smith into the room in which about forty playwrights were gathered.[3]

After some controversy as to who was or was not entitled to sit in the conference (Broadhurst particularly objected to the presence there of Henry E. Dixey), Hopkins launched into a defense of the managers' refusal to deal with or recognize Equity.* In a solemn voice Hopkins declared:

"I don't know whether it is necessary to impress upon you that the death of the theatre will be the inevitable result of the 'closed shop.'

"The Hebrew Actors' Union and the Hebrew Chorus Union are conducted on the 'closed shop' principle, and no new members are admitted or elected until death makes a vacancy in the ranks. The Hebrew Actors' Union has a walking delegate who passes upon the cast of every play prepared for production in a Hebrew theatre. The manager playing a production is required to submit the proposed cast and, unless it meets with the approval of the walking delegate, he is not permitted to produce the play. A walking delegate thus exercises enormous power. The most flagrant abuse of it in the last five years is well known to every patron of the Hebrew theatres. A walking delegate insisted for four successive years upon the engagement in prominent rôles of a woman not even young and pretty, who was the object of his affections. Finally, matters in the Hebrew Actors' Union came to such a pass that this walking delegate was expelled.

"Any manager who desires to employ an actress not a member of the union is confronted with threats of a strike, although most of the members are far too old to impersonate ingénues or

* *New York Times*, August 20, 1919.

juvenile characters. A case in point occurred only last spring, when the manager of a production unable to secure an ingénue to play a country girl, of eighteen, had to give the part to an actress who was actually forty-one years old.

"Even more flagrant abuses of authority prevail in the Hebrew Chorus Union. There are by actual count in this union eleven chorus girls who are over the age of forty, and there is one veteran chorus girl who has been on the stage since the union was first formed, nearly thirty years ago, and who is now fifty-seven years of age and a grandmother. She is large and fat. Yet the managers have to employ her as a chorus girl.

"If conditions of this kind ever prevail in the theatres of Broadway, the managers might just as well shut up their houses for good, because it will mean absolute stagnation, death to artistic endeavors, and the loss of control of their own property by the theatrical managers and producers. No one can realize the terrible effects of having an artistic enterprise like the theatre conducted under 'closed shop' rules until he has made a close study of actual working conditions that exist today in the Hebrew theatres of New York and Brooklyn. If the Actors' Equity Association obtains the authority it is now trying to force upon the managers, it will be just as great a dictator, and will prevent the development of any new talent and work irreparable injury to the theatre." *

And Hopkins sat down facing a deeply impressed audience, conscious that his recruiting talk had greatly moved the dramatists, and might even induce them to enlist as the managers' soldiers. Here again the managerial strategy was consistent. At all times the producers sought to convince the dramatists, the public, even the actors, that their interests were identical with those of the managers, and to persuade any, or all of those sections to ally themselves with the managers "to save the theatre."

"Well," queried Roi Cooper Megrue after Belasco, Winchell Smith and George Broadhurst had elaborated this theme, "have you any solution in mind?"

And instantly the real desire of the Producing Managers' Association was indicated by Hopkins. "We think the solution is in the formation of another body of actors. We can't deal with

* *New York Tribune*, August 20, 1919.

Equity. I don't know whether any of you saw George M. Cohan's offer to finance such an organization with $100,000, and devote his life to it?" *

On this suggestion the managers' presentation of their case ended. According to a resolution introduced by Max Marcin before the arrival of the managers' delegation, there was no applause, nor were they escorted to the door. But they had succeeded in planting deeply in the dramatists' minds the thought that Equity stood for the Closed Shop in the theatre, a thought which stayed long with the dramatists and inclined them to look askance at Equity for several years.

Although the managers had acceded to the dramatists' request that they be represented by author-managers, Equity's case was represented by Gillmore, Turner, and Rubin, none of whom was an author. For this reason the dramatists hesitated as to whether they should even hear Equity. The matter was put to a vote, and it was decided that the actors' side ought to be heard at least.*

A DECISION FOR NEUTRALITY

The dramatists were in something of a quandary when the actors' delegation had departed and it came to sifting and weighing the evidence. An attempt by George Middleton to force an immediate decision was blocked by Eugene Walter, who said:

"Let's have no snap judgment. We ought to sleep over this. Appear here at ten-thirty in the morning, and decide whether we want to do anything." †

The entire assembly was in agreement with this policy and the meeting stood adjourned. The meeting of which Broadway had expected so much had ended without even a decision as to where the dramatists stood in the matter.

For several days representatives of both sides had conferred with Governor Alfred E. Smith over the problems raised by the strike. On this evening both sides met with him in separate rooms in the Hotel Biltmore.

With Gillmore, on this occasion, were Frayne, Holland, Weber

* *New York Morning Telegraph*, August 20, 1919.
† *New York Tribune*, August 20, 1919

and Shay, almost exclusively a labor line-up. The managers put their case in the hands of a committee headed by Sam Harris and Cohan.

From one room to the other Governor Smith went rapidly several times, but at the end of the conference there was nothing to announce, and the next day Governor Smith returned to Albany without having accomplished a reconciliation. Both sides denied that they had asked mediation of the Governor and affairs were, apparently, just where they had started from, that morning.

Not quite where they had been, perhaps. "La La Lucille," sponsored by Alfred E. Aarons, had been running as an exempt show at Henry Miller's Theatre. Now Equity became convinced that members of the Producing Managers' Association were obtaining aid, comfort and sustenance from its appearance, and the protecting ruling was withdrawn. The stage hands and musicians promptly walked out, and the Theatrical Coroner's mortality records stood at eighteen.[4]

At the Lexington Avenue Opera House the second benefit performance was a sell-out. More than one thousand prospective patrons, it was estimated, had been turned away, and the revenue from ticket sales alone amounted to nearly $5,000.[5]

There was one surprise for the audience. Although Ed Wynn had flirted with the injunction on opening night, it had not been considered expedient to continue the feature. In Wynn's place there appeared James Barton.

Barton, at that time, was entirely unknown to the legitimate theatre and its audience. What fame he had acquired had been on the burlesque wheels. There he was known and his limber, loose-jointed dancing had made him a favorite. The Shuberts had discovered him, and had their plans laid to allow him to break on the Broadway horizon in one of their musical shows early in the season. Until that time he was being kept carefully under cover.

But Barton was an Equity member, and word of his ability and of the Shuberts' plans had come to the ears of the Entertainment Committee. They stole the Shubert thunder by providing that his Broadway début should be under Equity auspices.

And from the moment that Barton slouched onto the stage and slid into his dance he was a Broadway star. The audience

took him to its heart, and made him the hit of the show. There was no question about his place after that reception. And it was the Actors' Equity Association—not the Shuberts—who had made that introduction.

EQUITY'S PLEDGE ON THE CLOSED SHOP

When the dramatists reconvened at ten-thirty the next morning Winchell Smith bobbed up with a proposition. Just what prompted him to make it is not clear, for subsequent events quickly proved that he had not been authorized to do so by the Producing Managers' Association. Nevertheless, Smith insisted to Eugene Walter, who left the conference to talk with him outside, that if the dramatists could get from Equity an agreement in writing not to ask for the closed shop in the contract to be negotiated, he would present that pledge to the meeting of the managers to be held that afternoon; and he was confident that such a pledge would remove the principal stumbling block to an agreement.*

The dramatists were delighted, of course, and at once nominated a committee of four, consisting of Eugene Walter, Gene Buck, Guy Bolton and Owen Davis. This committee went without delay to Turner's office and stated Smith's proposition, "Would Equity put in writing its pledge not to ask for a closed shop in the new contract?"

Turner assured the dramatists that Equity had meant just what it had said on the previous afternoon, and would not hesitate to put its words on paper.

"But," Walter persisted, "would the Actors' Equity Association be willing to agree, in writing also, to bond itself for faithful contract observance, if the managers agreed to do the same?"

Turner's answer was to summon Gillmore, and the following letter was drafted on the spot:

"Confirming what our committee said to you yesterday, we beg to advise that, upon a satisfactory adjustment of the situation with the managers, we will agree on our behalf that our Association will pledge itself for the term of the contract which we enter into with

* *Variety Daily Bulletin*, No. 11, August 21, 1919.

the managers not to require a 'closed shop'; and further, that upon entering into any contract mutually satisfactory, with the Producing Managers' Association, we will not only pledge our association under such contract, but also reasonably bond its faithful performance. The managers on their behalf to equally pledge themselves and their Association and give a like bond.

"Yours very truly,
"(Signed) ACTORS' EQUITY ASSOCIATION,
"by Frank Gillmore,
"Executive Secretary."

The managers later attempted to argue from this letter that Equity had agreed never to ask for a closed shop at any time, or under any conditions. This, in the face of the specific wording of the letter which declared: "Our Association will pledge itself *for the term of the contract which we enter into with the managers, not to require a 'closed shop.'*"

At the moment, anyway, the dramatists believed that they had achieved their goal, and that a settlement of the strike was actually within sight. In high spirits they returned to the Astor where, after a brief session with the other playwrights, at two-thirty, they adjourned until five-thirty when the same committee which had waited upon Equity departed to managerial headquarters.

Messrs. Walter, Buck, Bolton and Davis were closeted with the managers for only thirty minutes or so. At the end of that time Walter, his face gloomy and his manner depressed, stepped from the conference, and announced to the newspaper men who were gathered outside:

"Gentlemen, we have but one announcement to make. It is that we have strikingly failed." *

Later Walter admitted that while the individual members of the dramatists' Committee had been received with considerable warmth, the news that Equity was willing to agree not to ask for a closed shop during the life of the pending contract, and would bond itself to keep that contract if the managers would do the same, had cast an icy chill over the managers' assembly; and that the Producing Managers' Association, far from considering the terms offered, had declined even to open Gillmore's letter.†

* *Variety Daily Bulletin*, No. 11, August 21, 1919.
† *New York Morning Sun*, August 21, 1919.

So, gradually, the Producing Managers had settled down to a cold and determined refusal to treat with Equity, or recognize the Actors' Equity Association on any terms and that was the sole ground on which they now stood.

Walter let it be known that the informal conference of dramatists which had been called into being by Hopwood and himself was at an end, and Broadway, which had viewed with confidence the efforts of the dramatists to end the conflict, became convinced that nothing less than a finish fight would accomplish that result.

The managers, conscious of the bad impression caused by their refusal to consider the Equity letter obtained on the representation of one of their own number, endeavored to counteract it by an immediate justification of their stand. Accordingly a statement was prepared for the press in which the managers asserted:

"The Actors' Equity Association proposal to the authors that it was willing to furnish a $500,000 bond to guarantee its good faith in the future, was looked upon by the Producing Managers' Association as poor security for a business in which over $100,000,000 is invested. The Producing Managers' Association wants no bond. It wants to deal with a body of actors that has not demonstrated its complete disregard of property rights and contract rights. The Actors' Equity Association has branded itself as an advocate of individual contract violation, and thereby has destroyed all confidence that the managers may have had in it. The authors asked the Producing Managers' Association to present their side of the case to the authors, only desiring to know the facts and having no intention of interfering.

"The following day the authors, with none but the best intentions, sought to intervene. The managers impressed upon them that the authors' and managers' interests were identical and that the manager, in fighting for the preservation of the theatre, was fighting the authors' battle as well as his own." *

Gillmore had not mentioned $500,000 or any other figure, but only "reasonably bond its faithful performance." As to the adequacy of $500,000, Hopkins in addressing the dramatists only the afternoon before had boasted with every appearance of satisfaction that thirty-two of the managers had "banded together and posted a forfeit of $10,000 each as an assurance that there would

* *Variety Daily Bulletin*, No. 11, August 21, 1919.

be no contract violations in the future," * which Hopkins, although $320,000 is still considerably less than $500,000, had seemed to think was a pretty handsome offer.

Much of the fire of Hopkins, Broadhurst and Belasco, appearing before the playwrights, had been centered on the Hebrew Actors' Union and its workings, and the alleged results of those workings. At this time, therefore, Gillmore, calling attention to the remarkably organized closed shop in which the Producing Managers' Association was indulging, said of the Hebrew Theatres:

"Despite certain expressions from managers with regard to the Hebrew Actors' Union, personal experience thereof has shown me beautiful theatres with plays admirably performed by an excellent and happy cast, working under a successful, happy and considerate management, and above all, playing to happy, satisfied and overflowing audiences, even on a Monday night." †

One of the strongest bulwarks to the managers' confidence had been the feeling that the actors were not prepared for an extended strike, that within a comparatively short time the pinch of want would bring them around. It was, therefore, a considerable jolt to this confidence when Mrs. Shelley Hull, in charge of Equity's Relief and Aid Fund, announced at this time that her treasury now contained $40,000 and that there had only been three calls on her for assistance. And this was the fourteenth day of the strike.‡

WHAT LEE SHUBERT HEARD AT THE WINTER GARDEN

In many ways the technique of picketing had improved immensely since those first days of the strike. By this time the pickets instead of making their appeals directly to passersby or to prospective patrons, now addressed them to each other.

It happened that on this evening Elisabeth Risdon and Grant Stewart were walking up and down on Broadway before the Winter Garden. Their dialogue, spoken ostensibly to each other, was yet in tones so modulated as to carry to any one in the lobby or by the box office, and ran something like this:

* *New York Morning Telegraph,* August 20, 1919.
† *Variety Daily Bulletin,* No. 11, August 21, 1919.
‡ *New York Evening Sun,* August 20, 1919.

MR. STEWART (*in a conversational tone*). Did you know that the Winter Garden was unfair to the Actors' Equity Association?

MISS RISDON (*with animation*). Do you mean to tell me that the Winter Garden is UNFAIR to the Actors' Equity Association?

MR. STEWART (*firmly, yet with undertones of regret*). Yes, the Winter Garden is unfair to the Actors' Equity Association.

And so on, ad infinitum.

But just as they reached a point opposite the lobby, a taxicab drove up at high speed, and a slight, dark figure sprang from it and turned to pay the driver. It was Lee Shubert. Instantly the pickets seized the opportunity.

MISS RISDON (*in surprised but not suppressed tones*). Do you mean to say that the Winter Garden is unfair to the Actors' Equity Association?

MR. STEWART (*speaking almost into the shrinking ear of the taxi's passenger*). Yes, the Winter Garden is unfair to the Actors' Equity Association.

Mr. Shubert, with this information ringing in his ears, sped through the lobby and into the theater.

It was not a pleasure call he was paying. The stage hands and musicians had been ordered to walk out on the combined "Gaieties of 1919," "Monte Cristo Jr." and "The Passing Show," a vaudeville show backed by chorus numbers. The Shuberts were faced with the problem of knuckling under and allowing their show to be closed, or of devising some way to put it on without stage hands and musicians. They chose the latter.

Toiling with ropes, hauling at sets and lights, the chiefs of staff of the Shubert Theatrical Enterprises managed to rig the one set used. Among those who became grips and flymen, for one night only, were Lee and J. J. Shubert (the latter making himself responsible for the lights in addition), Stanley Sharpe, Allan Foster, and Zeke Colvin. Many of the chorus girls also lent a hand. Somewhat later than the regular curtain time a lone pianist crawled into the musicians' pit (one of the many composers re-

sponsible for its musical numbers camouflaged as an orchestra), and E. Romeyn Simmons of the Shubert staff took the stage.

He explained that the house had been abandoned by the musicians and stage hands and asked for a rising vote as to whether the performance should be given "as is" or not. The majority of the audience did not rise to its feet, and pass out, so the bill limped on. This was done largely, as Mr. Simmons explained:

"Because the management wants to keep the Winter Garden open, and pay the chorus girls their salaries." *

And in this fashion the Winter Garden just escaped the attentions of the Theatrical Coroner.

In very great contrast to the state of the Winter Garden and others of its fellow theatres whose lessees were less talented than the Shuberts, was the third benefit performance at the Lexington Avenue Opera House.

HOW THE ACTORS DEALT WITH TICKET SPECULATORS

The enthusiasm with which the public had turned to this benefit had not escaped the astute ticket speculators, and they viewed with amazement and chagrin Equity's policy of selling seats at the box office. That, according to the agencies and the speculators, was quite the silliest thing of which they had ever heard. They approached Equity, and offered to take over all the seats Equity was willing to consign them, even at a slight advance over the box office price. Why not, when the house was selling out nightly, and seats priced at fifty cents to $2 could be resold for five or six times that price?

When Equity refused to consider those terms, and spoke of its responsibilities to the public (a strange and forbidding jargon to the speculators), the agencies and speculators sent diggers around to the box office to pick up what seats they could.

Equity was faced with a problem as to what to do with these diggers, some of whom were well known to the actors. Should the actors look the other way and permit this practice, or should they attempt to put a stop to it? There was the Williams-Kilroe Law which forbade it, and Equity had assured the public that it would not countenance such proceedings, but what of it? The

* *New York Morning Telegraph*, August 20, 1919.

Producing Managers' Association had also declared its intention of stopping ticket speculation, but the agencies were flourishing for all of that, weren't they?

Nevertheless, Equity decided to make an end to it, and came to the conclusion that the simplest way to go about it was to catch and convict one of the speculators. A volunteer band of detectives was organized by Boothe.

Richard Gordon, who had earlier distinguished himself on the picket line, was on this duty in front of the Lexington Avenue Opera House. He was approached by Louis Cohen, a ticket broker with an office in the Hotel Hermitage. Gordon bought two tickets at more than the legal price, and demanded that Cohen turn in his others. Instead of doing so he turned and fled down Lexington Avenue.

At this instant a limousine drove up and a gentleman descended. "Will you let me borrow this car for a moment?" Gordon exclaimed, and then explained who he was and what he was trying to do.

"This isn't my car," the gentleman returned, "I'm afraid that you will have to ask this lady," and he pointed to the passenger who was just rising to alight.

"Equity can have my car or anything else of mine it wants," she responded and entered the theatre while Gordon jumped in, and the car was off in pursuit of the flying broker.

After a chase of three or four blocks the fugitive was run down, arrested and later was fined $10, besides being forced to refund what money he had already taken for tickets.[7]

The storm broke in Chicago that evening. After conferences between Equity officials and representatives of the stage hands and musicians, orders were issued for a walkout in five of the six theatres still running, and they snapped shut with a bang which rattled every cash register in the Loop.

Three productions had already gone down earlier in the fighting. To these were now added, just at matinée time, "Angel Face" (George W. Lederer), at the Colonial; "Honeymoon Town" (J. L. Blanchard), at the La Salle; "Scandal" (Walter Hast), at the Garrick; "Sunshine" (Johnstone and Shaw), at the Studebaker; and "The Passing Show" (Shuberts), at the Palace.

"Down Limerick Way," Augustus Pitou's production, with Fiske O'Hara in the lead, missed a similar fate by a hair. Original plans had called for the closing of every legitimate theatre. But Pitou, who had always shown himself a friend of Equity, kept the wires to New York hot during the day, and obtained an exemption for his company at the last minute. Every member of his company became a member of the Actors' Equity Association, and received an Equity contract. As a further evidence of his friendship for Equity, Fiske O'Hara, at the conclusion of the performance, announced from the stage through Grant Mitchell, that ten per cent of the gross receipts of the piece would be contributed to Equity's strike fund. This was a purely personal contribution on the part of O'Hara and the continuance of the play was not in any way contingent upon it.

Vaudeville and burlesque shows were not touched by the walk-out. But on Wednesday night in Chicago, the second theatrical city of the country, every legitimate theatre but one was dark.[8]

Chapter XIV

SECOND CALL FOR A COMPANY UNION

The half million dollar suit of the Winter Garden Company against the officers and almost two hundred members of the Actors' Equity Association, which, on the fourteenth, had been postponed for one week to permit United States Marshal McCarthy and his assistants to complete service of the necessary papers upon all of the defendants, now came up before Judge Julian W. Mack in Federal District Court. Again the Shuberts and their attorneys were forced to confess that they were not prepared to go on with the trial and, the Equity lawyers consenting, the trial was postponed to Thursday, August 28.[1]

Motion pictures had been put forward as the managers' answer to the strike. But it was a feeble retort at best. In place of the eighteen legitimate productions closed by Equity and the five scheduled productions which had been abandoned before their premières, two feature films had opened on Broadway in the two weeks of the strike, "Evangeline" and "Kathleen Mavourneen" at the Forty-Fourth Street Theatre, where the "Gaieties of 1919" had been playing; and "Deliverance," with Helen Keller, in place of "The Five Million" at the Lyric. And though the managers asserted that these would be joined by the Cohan, Gaiety, Central and Park Theatres, shortly, the motion picture industry was not as happy over the strike, and the removal of competition from the legitimate, as it might have been.

In fact there was a considerable amount of uneasiness in the ranks of the National Association of the Motion Picture Industry over the probable result of the action of the meeting of August 6, at which, William A. Brady, as president, had pledged its support to the alliance of legitimate, vaudeville and burlesque managerial interests which had been engineered by Albee. Now, because of that action, P. A. Powers, Treasurer of the Universal Film Company, one of the important producing organizations in the motion picture field, resigned from his Association.[2]

All the time since the calling of the strike Otis Skinner had

remained something of an unknown quantity. He was on vacation in the mountains of Colorado. At this late date, however, he suddenly sent in his resignation from the Actors' Equity Association, supplementing it with a long wire to the *New York Evening Globe,* in which he gave his reasons for this action.[3]

This statement revealed that Skinner had come to regard himself primarily as a manager rather than as an actor. It was the assault of Equity upon the managers which stirred him, and not the encroachments of managers upon the actors' rights. In this Skinner was undoubtedly exercising the "freedom of action and liberty of choice" he claimed as his due. But in asserting that the strike was "a blind assault upon the just and the unjust," he was making an error.

The strike was called against the Producing Managers' Association. Managers not included in the Producing Managers' Association were not touched by the strike, except in those instances in which Equity became convinced that members of the Producing Managers' Association were sharing in the profits of plays which were produced under ostensibly independent management. The Theatre Guild's production of "John Ferguson" and A. L. Jones' "Greenwich Village Follies" in New York, both ran undisturbed throughout the course of the strike. So did Augustus Pitou's "Down Limerick Way" in Chicago.

The long expected move against Coburn's "The Better 'Ole" at the Booth Theatre was suddenly made this evening. Many of Equity's friends who had known of Coburn's early connection with the Association, and of the bitterness which his complete surrender to the managers had roused, had wondered why Equity had allowed this play to continue, and had hinted darkly at favoritism.

But Coburn, although he had managed to keep his play on the boards through a lavish use of understudies and of members of second and third companies, had been putting on a wretched show, and one which, even with the lack of competition, had been losing money at every performance. It had seemed to Equity a well merited punishment that he should be allowed to continue and to lose money on this piece in which he was playing in defiance of the policy and of the orders of the Association on whose Council he had been so long.

Two weeks, however, had been deemed sufficient, and since all the other houses were being closed there was no use in permitting him to be getting away with his defiance longer, even if it was only apparently. Acting in accordance with their general policy, at the request of Equity, the stage hands and musicians walked out just before curtain time, and the Booth Theatre went on the retired list.

This closing left only two shows which might be classed as opposition—the Winter Garden and "At 9:45" with William A. Brady at the Playhouse. Of these two the Winter Garden had been mortally hit by the walkout of the stage hands and musicians on the night before, and was playing this night to a half house. "At 9:45" had not been touched. This production was playing with a scab company in a single set, with no house orchestra. If the stage hands had been called out the set could have been left standing from performance to performance, and only the stage hands affected would have been the losers by it. This then was the legitimate opposition which the managers were able to offer at the half way station of the strike.

JUSTICE HENDRICK WOULD SETTLE THE STRIKE

When the case of the Producing Managers' Association against Equity and its Officers again came up for hearing before Justice Hendrick of the Supreme Court of New York State on Friday morning, August 22, Equity's counsel once more essayed to delay the trial. But Justice Hendrick, back from his successful settlement of the strike on the Interborough Rapid Transit Company lines, was in no mood to accord it.

"I do not think this is a case so complicated that it cannot be passed upon without much difficulty or delay by this court," Justice Hendrick declared. "The questions involved are very simple, as in all strike matters. The fact that large amounts of money have been invested in this business or that does not affect the general principles involved. I can promise you that if this matter is brought before me in such manner as I suggest a decision will be arrived at promptly." *

This was eminently satisfactory to Colby, Tuttle and Burkan

* *New York Morning Telegraph*, August 23, 1919.

who were representing the Producing Managers' Association. They had everything to gain by a quick trial. They had nothing to lose for already all but the ghost of the Winter Garden show and "At 9:45" were closed, and would stay closed until the strike was settled.

It was not so satisfactory to Turner, Sheffield, Harvey and former Vice Chancellor Merritt Lane of New Jersey, who were in court to represent the Actors' Equity Association, and such of its Officers and members as had been served. Their tactics were always to prolong the actual court trial, and to prevent, if possible, a decision based upon the technicalities of the laws of contracts rather than upon the fundamental principles of the case. If a decision could be postponed until the strike was won, the dropping of all suits would be a prerequisite to settlement.

And so the motion for an immediate trial was vigorously opposed. But Justice Hendrick, as Justice Lydon had been, was all for an immediate trial of the case, and a request for postponement of the hearing until the following Wednesday was summarily denied, and the hearing set for the next day.

Having failed at this point the Equity attorneys attempted to have vacated the temporary injunction which was preventing the appearance of Ed Wynn, in the Equity benefits at the Lexington Avenue Opera House.

"I do not think it would be right to dissolve the injunction against Mr. Wynn, when the man on the street would not see any further than to say 'this is a victory for the actors over the managers,'" remarked Justice Hendrick. "This entire matter is one which the court should hold firmly in hand until it has been finally determined." *

At two o'clock the Equity clans had so packed the Lexington Avenue Opera House that the building overflowed. Long after the doors were closed, however, new arrivals kept coming until it was estimated that fully as many were turned away as had struggled into the building. Francis Wilson was in the chair.

Pledges of labor support were repeated, as they had been many times before, by Shay and Weber. In addition to the formal pledge, Shay demolished in one sentence the bogey with which the managers had been threatening the actors—filling all their

*New York Tribune, August 23, 1919.

theatres with motion pictures. The motion picture machine operators were included in his union, and he now proclaimed that none of them would be allowed to turn a crank in any house owned or operated by a member of the Producing Managers' Association, and added that the motion picture producers had agreed to abide by this decision.[4]

Following speeches by Helen Keller, Frayne, Wilson, Gillmore and others, Ethel Barrymore suddenly sprang to her feet and obtained the recognition of the chair.

"I know that we are all loyal, and that we will win the strike," she cried, "but our ammunition is money. I know a lot of persons here feel impoverished by present events, but I think that some of us who have a little to spare should give this ammunition. If I can get one hundred and ninety-nine actors and actresses to give $500 each, I am ready to sign my check for that amount."

In the enthusiastic rush to greet this call Ed Wynn was the first to actually write and turn over to Miss Barrymore his check; but he was only an instant ahead of Francis Wilson, who made up for it by doubling Miss Barrymore's amount.[5]

Before the meeting surged out into the street pledges amounting to $21,500 had been collected and Miss Barrymore, together with Marie Dressler, had been appointed a committee to complete the $100,000 sought.

THE ACTORS' FIDELITY LEAGUE

At the same moment the Equity meeting was called to order, the protest meeting summoned by Louis Mann at the Hotel Biltmore was convening.

Temporarily Alan Dinehart was in charge but as soon as it was called to order Mann, generally recognized as its active sponsor, was elected to the chairmanship and took command.

There was a particularly large managerial representation out in front. This was the organization of actors for whose formation they had been waiting; to which they had promised in advance a contract whose terms would be better than those which had been denied Equity as ruinous; which was the prospective heir to George M. Cohan's christening gift of $100,000; and they were anxious to see who would be in it, and to what extent

it would resemble their hopes. Scattered through the rows of chairs in the ballroom were, among others: Charles Coburn, Edgar MacGregor, Charles Emerson Cook, Walter Wanger, Joe Weber, Gus Edwards, Arch Selwyn, Edward Lyons, Sam H. Harris, Robert Campbell and R. G. Herndon.[6]

The meeting was tumultous throughout. Although the sentiment of the majority was definitely pro-manager, or anti-Equity, it was not a unanimous feeling. Here and there in the audience were individuals or groups of Equity members or sympathizers who defended Equity from the charges and accusations hurled by most of the speakers.

Louis Mann did not long delay the commencement of hostilities. Almost in his opening sentence he made the assertion that:

"The person who deliberately violates a bona fide contract, as Equity actors have done, is a dastard, and not a fit companion in such a great and glorious profession as that of the actor." * And he continued by saying: "The Actors' Equity Association's affiliation with the American Federation of Labor is an unmoral one." †

Then, while Kyle was arguing that the request of Equity for an eight performance week was not analogous to a similar request which had been granted the Actors' Association in England, he was interrupted by Lawrence Grant with a spirited defense of Equity and of the American Federation of Labor. During the storm raised by this defense Mann elected to say:

"I admire the American Federation of Labor, but, much as I love labor, I don't think it can equalize the artist. I have the good will of every actor with whom I have worked and though I feel that an actor is my equal as man to man, he is not my equal when we go before the footlights. By the very essence that constitutes biology, that underlies all protoplasm, he could not equal my achievement. To unionize the stage would circumscribe genius." ‡

When Grant attempted to voice his opinion in the negative of this proposition he was heckled from the floor, and was succeeded at the end of a fifteen minute battle by Ben Jonson, who had con-

* *New York Review*, August 23, 1919.
† *New York American*, August 23, 1919.
‡ *New York Tribune*, August 23, 1919.

tinued in "The Challenge" after the company had been called out. Jonson, very caustic toward Equity and its methods, asserted:

"They (Equity officers and members), have stripped the theatre of every vestige of dignity. I am ashamed, right now, for anybody to suspect that I am an actor." *

So far the meeting was with the speaker, and when he proposed a resolution declaring it the sense of the meeting that there was need for a new actors' organization, and that the managers should not recognize Equity, he was generously applauded. But when Jonson went further and added that no one then a member of the Actors' Equity Association should be permitted to work in the theatre under the rules of the new association he was greeted with cries of "Closed shop!" from all quarters, and his proposition was voted down amid a flurry of dissenting boos and hisses.*

When this demonstration had quieted down in a measure, Mann returned to the assault on Equity and its tactics in carrying on the strike.

"It has come to such a pass," he declared, "that a boy was throttled in the back room of Equity Headquarters by members of the organization." †

There followed then a genuine uproar from the Equity members present, and they defied Mann to produce the boy. A youth was shoved onto the platform, not the boy in question, but his brother.

Dramatically Arthur James related his version of the visit of his brother, Gardiner James, to Equity Headquarters a few days before, when the loyalty of the James boys was questioned.

"As he got in the door on Forty-Fifth Street two men nabbed him, and said: 'Show us your card.' My brother said No, he wanted to see Harrison Hunter. Then they took him into a room where no one else was and Ned Sparks put him up against the wall and jerked his neck up and down. . . ." ‡

The facts available indicate that Gardiner James' loyalty was in question and his Equity card was demanded of him. He handed it over, and then made a grab to regain it. A scuffle ensued.

* *New York American*, August 23, 1919.
† *New York Morning Telegraph*, August 23, 1919.
‡ *New York Morning Sun*, August 23, 1919.

This charge threw the mercurial meeting into confusion which was heightened when Alexander Leftwich seized the floor and shouted:

"The actors have been sacrificed in order that the vanity of these damned heathen might be satisfied." *

Here was a cryptic and wholly emotional contention advanced without relevancy or corroborative evidence, but the seething meeting was in no mood to analyze any statements, and the enthusiasm boiled even higher, as Leftwich asserted that Equity had effected a separation between him and his wife, who was ill.

"There were tears in many eyes when Mr. Leftwich finished his statement," said the *Review,* "and the Equity spies and pickets who had come hoping to break up the meeting, fled in dismay from the room amid hisses and scorn." †

Although there is no question as to the identity of those who were responsible for the formation of the Actors' Fidelity League, it may not be generally known that the actual motion proposing the formation of a new organization was made by a little-known actress, Catherine Hagan, from an obscure corner of the room.

"HAIL TO THE KING!"

But it was the step for which the meeting had been waiting, the climax toward which all the emotional fireworks had been building. It was met with a wild outburst of cheering, clapping of hands, and stamping of feet. Judging the time now ripe for the playing of their trump card, Warfield, during the demonstration, sent word to Cohan, who had delayed his entrance for the heightened effect, that the stage had been set, and it was time for his appearance.[7]

The messenger took longer to run his course than the demonstration, and Mann filled the gap by giving the stage to Janet Beecher. Miss Beecher had only had time to begin her denunciation of Equity.

And then the meeting went wild. Near the door a voice cried out: "Here comes George!" And Miss Beecher and her senti-

* *New York Morning Sun,* August 23, 1919.
† *New York Review,* August 23, 1919.

ments about the work they loved and the A.E.A. they hated, and money and labor and all those stupid things, were alike forgotten. George M. Cohan, the hero of the production, was on the scene and the meeting rose to accord him a royal welcome.

A small sized riot ensued as the audience scrambled for a better view of Cohan's progress to the platform. A dissenting Equity member who refused to rise to his feet and do Cohan honor was in imminent danger of being mobbed, but Miss Beecher, bereft of the spotlight on the platform, flung herself between the dissenter and the mob, and prevented actual violence.*

As soon as he could make himself audible over the dying cheers, Mann turned to Cohan and said: "We want you to lead us, Georgie, out of the desert, and into the oasis. We know, full well, that you, with your master mind, can do this." *

Tumult again! And then the meeting became more quiet than it had since its opening moment, for Cohan was speaking:

"Ladies and Gentlemen," he began. "First of all I want you to know that I am not here representing anybody at all, except myself. I am a member of the Producing Managers' Association, and proud of the fact.†

"I want no more of the limelight. I mean that, folks. Dave Belasco said the other day that if the wind blew a certain way, he'd never produce another play. I guess whichever way the wind blows, I never will produce another, either."

"Yes, you will, Georgie! We know you will!" came back the crowd.‡

"I don't believe I will," Cohan continued. "I have no plans. I put myself at your disposal. I want you to know that I have no particular executive ability. I am not much good. I know how to get on and off the stage; I know a little about fixing up a play, and maybe a few other little things like that.‡

"The stage is all I know or care about. I'm forty years old, and I've been on the stage forty years.§ A few days ago a man approached me and asked me why I didn't do something to lead the actors out of this trouble. I told him that if my time, my

* *New York Morning Telegraph,* August 23, 1929.
† *New York Herald,* August 23, 1919.
‡ *New York Tribune,* August 23, 1919.
§ *New York Morning Telegraph,* August 23, 1919.

energy and my money can do anything for them, they can have it all.*

"I want to bring back friendly relations between the players and the managers.

"I knew that this meeting was going to take place—I don't want you to think I didn't. Louis Mann told me he might send for me, and he mightn't. I don't know what else to say, except that I am for you all the way to the grand finale." †

Mann, whose emotions had mastered his sense of responsibility to parliamentary procedure, dramatically cried:

"Our President, George M. Cohan!" †

Then the lid was blown off the meeting. The display of emotional pyrotechnics loosed by this announcement paled all its other fulminations by comparison. Only Cohan was not swept away by the demonstration.

"I think Mr. Mann has gone a little too far at this time," Cohan said when the tumult had partially subsided. "This is too big a thing to railroad through. You know I'm a member of the Producing Managers' Association, and I will have to get them to agree to let me resign. Let's give this at least a few hours thought. Let's all get back here at eight o'clock, and then we'll fix everything up." ‡

For Cohan to suggest was equivalent to a command, and without much more ado than was to be expected under the circumstances the meeting stood adjourned until eight o'clock.

A DELAYED CORONATION

But the second meeting brought not Cohan, but a note postponing the coronation ceremony.

"My dear Louis Mann and Ladies and Gentlemen": Cohan had written. "It will be impossible for me to be with you tonight, but I want to repeat what I said this afternoon. I stand ready to do anything I can to help along any movement for the betterment of the theatre, and to bring about friendly relations between player and producer.

"Fearing that certain persons might think this movement started

* *New York Morning Sun,* August 23, 1919.
† *New York Morning Telegraph,* August 23, 1919.
‡ *New York Tribune,* August 23, 1919.

today is being fathered by the Producing Managers' Association, I should much rather not attend any meetings until I have resigned from the Producing Managers' Association, and that I do not care to do until you have formulated some plan of organization, and have some definite idea as to just what you want me to do, and when you want me to do it. With sincere good wishes,

"George M. Cohan." [8]

Mann, after reading this message, annihilated any pretense that this was to be an organization of neutrals by remarking:

"I firmly believe that we should go to Georgie and say that we have such firm and implicit confidence in him, that we do not want him to resign from the managers' organization. We want him to remain right where he is, with the managers, as we are with and for them, and unalterably opposed to the Actors' Equity." *

Mann thereupon appointed a committee to draft a constitution and by-laws, of which he was elected chairman also. Those who served with him on this committee were: Alan Dinehart, Arthur Ashley, Frederick Kerr, Janet Beecher, Lenore Ulric, David Warfield, Alexander Leftwich, William Collier, Zelda Sears, and Marjorie Wood.[9]

Pencils and paper were passed out among the audience, and at the conclusion of the rally it was announced that four hundred and sixty-five names had been enrolled.[10]

The nature of these meetings was well known by this time, and not more than a dozen accepted Mann's suggestion that all those not in sympathy with the new organization depart.

Little remained to be done before adjournment. Burr McIntosh proposed as a slogan for the association, which was yet to be named:

"Make the Stage Safe for Its Men and Women"

The proposal went over with a whoop, and an adjournment was taken until two o'clock the following afternoon.[11]

So the managers had put into practice the third of the three precepts given them by Albee, just one month previous, to the day.

* *New York Clipper*, August 27, 1919.

Chapter XV

IT SEEMED QUITE SIMPLE TO JUSTICE HENDRICK

When the adjourned battle over injunctions was resumed before Justice Hendrick on Saturday, August 23, it was evident that the Justice was greatly incensed at remarks which had been attributed by newspaper reporters covering the Equity meeting at the Lexington, the afternoon previous, to Charles C. Shay of the International Alliance of Theatrical Stage Employes. Shay was reported to have said, commenting on the rulings of Justice Hendrick in court that morning:

"The judges of this city and state and politicians who, prior to election, make promises which afterward they do not keep, had better beware how far they go in this particular strike we have on." *

Justice Hendrick read this alleged statement into the court record, and then turning to Turner, as Equity's attorney of record in the case, said with considerable warmth:

"I am not going to pass this by with mere comment. I wish to hear from counsel what they think of the remarks. What have you to say of one of your clients making such a statement?" *

Turner, after some consideration, repudiated the statement on behalf of his clients, and the honor of Justice Hendrick was apparently satisfied for, although Shay was in court, he was not called upon to explain his remarks.[1]

The attorneys for the managers, as ever, pressed for immediate trial, urging the magnitude of the losses being suffered by their clients as warrant for regarding the trial as an emergency.

Sheffield, Littleton, and Former Vice Chancellor Lane, who, with Turner, were representing Equity and its officers, interposed an immediate objection. Sheffield informed the Court that to present properly the two principal defenses—that the managers had first breached their own contracts and that the managers

* *New York Tribune*, August 24, 1919.

were engaged in an unlawful conspiracy in restraint of trade—would require the examination of a large number of additional witnesses, and that these affidavits could not be secured at once.[2]

But Justice Hendrick was plainly not in sympathy with these Fabian tactics. He replied that it was within the discretion of the court as to whether or not the emergency required an immediate trial, and pointed out that the cloakmakers' strike of 1916, in which 135,000 persons had been involved, had been settled within a week of its coming before him on injunction proceedings.

He announced that the papers at present on hand were sufficient to enable him to make a new order affecting the case at the next session of the court, on Monday, August 25.[3]

While these legal proceedings were going forward in New York, Vice Chancellor John H. Backes, in Atlantic City, was granting a temporary injunction, with an order for a hearing to show cause why it should not be made permanent, on behalf of the Nixon Amusement Company, owners and operators of the Apollo Theatre, and original members of the Theatrical Syndicate, against Atlantic City Local No. 77 of the I.A.T.S.E. The union was directed to refrain from ordering, advising, persuading or inducing any member of the organization to leave the employment of the complaining theatres, or to refuse, in any number, to comply with the terms of their employment. This, as far as can be ascertained, was the first time in which an injunction was sought to prevent stage hands from walking out.[4]

FIDELITY ENLISTS WITH THE MANAGERS

When the sponsors of the managers' company union convened at the Biltmore Hotel for the christening early in the afternoon, Louis Mann announced that a total of five hundred and forty-two applications for membership had been received. Then, as the ceremony was about to get under way, he invited all who did not intend to join the organization to depart from the meeting. Amid an avalanche of cheers and hisses ten or fifteen avowed Equity partisans rose and left, leaving in their wake a badly roiled meeting.*

* *New York Clipper*, August 27, 1919.

Alan Dinehart, reporting for the Committee on the Constitution and By-Laws, which had conferred with Cohan during the night, announced that the name of the organization was to be the Actors' Fidelity League, whence the term "Fidoes" for its members.

Dinehart's announcement that the Committee had decided to decline Cohan's offer of $100,000 with which to finance the League, came as a stunning surprise to the meeting. The Committee, he asserted, had volunteered to meet the expenses of organization by contributing $100 each.[5]

Kyle read the new Constitution and By-Laws, which were adopted with one minor alteration. The suggestion of the Committee that two blackballs bar a prospective member, was altered to require a majority vote in the Board of Directors to disbar any applicant.[6]

The Committee's slate of officers then came up for approval. It was complete with the exception of the office of President. This, Mann explained, had been left vacant pending a final decision by Cohan.

But the meeting was in no mood to appreciate such courtesies. From all parts of the room came demands for the nomination of George M. Cohan, and despite the vigorous efforts of the chairman, the nomination was maintained, seconded, and carried with a roar of approval.[7]

The other officers swept into office on this ticket were Vice President, Louis Mann; Secretary, Alan Dinehart; and Treasurer, William Collier.

A Board of twenty-one directors, whose service was based on the Equity plan whereby one-third of the Council was retired yearly, was also elected. On that board, as it was announced, were: David Warfield, Minnie Maddern Fiske, Holbrook Blinn, Lowell Sherman, Fay Bainter, Marjorie Wood, Frederick Kerr, Janet Beecher, Zelda Sears, Jose Ruben, Gladys Hanson, William H. Gilmore, Otis Skinner, Willard Mack, Lester Lonergan, George Barnum, George MacFarlane, John Halliday, Lenore Ulric, Julia Dean and Arthur Ashley.[8]

As a Nominating Committee headed by Alan Dinehart and including Louis Mann, Arthur Ashley, David Warfield, Alexander Leftwich, Frederick Kerr, William Collier, Janet Beecher, Zelda Sears, Lenore Ulric and Marjorie Wood,[9] left the meeting

to wait upon Cohan and officially notify him of his election. Louis Mann was asked by reporters what the attitude of Fidelity would be toward the stage hands. Mann declared:

"We have no thought or solution of that, except we know the stage hands are honorable men and will do the right thing. I love the stage hands. I have been associated with and would go to hell for them." *

Apprised of his election, but before the committee had called upon him, Cohan said:

"I'm not going to try to carry water on both shoulders. I can't accept this until I have resigned from the managers' organization, and I can't do that until there is a full meeting. I believe there will be a quorum at the meeting of managers to be held Monday afternoon. I'll offer my resignation then. If the Actors' Fidelity League thinks I ought to withdraw from the firm of Cohan and Harris, I'll do that. If they think I ought to I'll never act again; never produce a show, or shake a foot." †

That night the number of exempt shows was summarily reduced by two. "A Lonely Romeo" at the Casino Theatre had been playing under the nominal management of Lew Fields, who was not a member of the Producing Managers' Association, with a one hundred per cent Equity cast, and with all Equity contracts, since the strike had been called. Now it became known to Equity that although Fields had signed the contracts and was supposedly receiving all the profits of the attraction, the Shuberts were holders of a considerable interest in the production. It was with considerable regret that this step was forced upon Equity for Fields had dealt well with his actors and had complied in every way with Equity's contractual requirements. Even as a large house sat waiting the rise of the curtain, the actors, stage hands and musicians withdrew simultaneously, and the audience found itself on the sidewalk.

George White's "Scandals of 1919" had also been exempted on the theory that White was an independent producer. But, although he owed his present prosperity to this exemption, White had recently been indulging in a series of contemptuous and insulting references to the Actors' Equity Association. Such a gesture as sometimes prefaces the sudden departure of a small boy

* *New York Morning Telegraph*, August 24, 1919.
† *New York Morning World*, August 24, 1919.

from the presence of a stronger enemy had been employed by Mr. White with reference to Equity as the curtain fell on each performance, with the remark: *"That* for Equity!"

For some time Equity had ignored these manifestations of ill will, but their continuance had been carried too far. Again a simultaneous walkout, and a second good house joined the Saturday night pleasure seekers on the Rialto.

To offset these closings there was one opening, the Hippodrome, with "Happy Days." Although the Hippodrome was then under the direction of Charles B. Dillingham, a member of the Producing Managers' Association, its distinctive policy of two performances daily caused it to be regarded as vaudeville rather than a legitimate production. For the time being, at least, Equity accepted this view of the Hippodrome, and did not attempt to obstruct the opening.

The Notification Committee of the Actors' Fidelity League called on its President-Elect, George M. Cohan, at his home in Great Neck, Long Island, on the morning of Sunday, August 24th, and officially informed him that he had been unanimously chosen to head the League. Cohan thanked them for the honor but reserved his answer until the meeting which was scheduled for the following evening.[10]

While that Committee was thus engaged other members of the League scurried about and opened its Headquarters at 122 West 43rd Street, just off Broadway. A staff was installed, and the League was functioning by evening.

The Equity Entertainment Committee issued a statement of receipts from the first week of benefit performances at the Lexington Avenue Opera House which was immensely heartening to the rank and file of Equity supporters. In the eight performances of that week, the gross receipts had been $36,000, of which $31,000 had been profit. The unusual proportion of profit to expenses was due to the fact that the actors had volunteered their services, and that the stage hands had also donated their services to Equity for the first week.[11]

ISAIAH'S BANK ACCOUNT

The possession of all this money constituted a serious problem for those in charge of the benefits. The managers were gunning

for all available strike funds through the precedent established by the Danbury Hatters' Case, and to deposit this money as the property of the Actors' Equity Association would simply invite an attempt to tie it up. Yet it had to be put in some safe place—there was too much of it to be left lying around.

George Christie, manager of the Lexington Avenue Opera House, got around it by resorting to the Prophet Isaiah who now, for the first and probably the last time in his long and inspiring career, became the owner of a bank account. The account opened by Christie in the Harriman National Bank at Fifth Avenue and Forty-fourth Street stood in the name of "Isaiah, 59:14." And toward the end of his brief experience as a theatrical angel, Isaiah had as much as thirty-five or forty thousand dollars to his credit.

Getting the money to Isaiah's credit was something of a job, too, for the Lexington Avenue Opera House had no safe, and the bank, of course, was closed before the house staff could get through counting up. But through the coöperation of the police at the East Fifty-first Street Police Station there was never a suspicion of trouble with the disposition of the funds.

Each night at the conclusion of the count Mr. Christie called a taxi, never two nights from the same company. There were always a couple of patrolmen on duty near the entrance when it arrived and they saw that no cruising taxis or suspicious persons got near until Christie and his guards were under way. Even then traffic was usually held up until the taxi with the actors' treasury had a block or more start.

It may be that the managers never really considered making a move to tie up these receipts and that these precautions were wholly unnecessary. It may be, on the other hand, that the producers were not as well versed in the Old Testament as they should have been—for their own good. For if they had turned to the Fourteenth Verse of the Fifty-ninth Chapter of the Book of Isaiah, they would surely have guessed the identity of the owner of "Isaiah 59:14" in the Harriman National Bank, for the verse reads:

"And judgment is turned away backward, and justice standeth afar off: for truth is fallen in the street, and equity cannot enter."

In the evening the Winter Garden, which had been limping

along with one set of scenery, a lone pianist, and a variable bill, finally yielded up the ghost.

The Shuberts announced that the closing of the house was due to their inability to maintain the usual high standards of the Winter Garden productions,* but it is probable that the failure of the bill to draw paying houses also figured in their decision.

The withdrawal of the Winter Garden left William A. Brady's "At 9:45," in the Playhouse, the sole defiant standard bearer of the twenty-five productions running or scheduled to open during the eighteen days of the strike.

THE INJUNCTIONS ARE ARGUED

On Monday afternoon, August 25, at two o'clock, representatives of both Equity and the managers gathered in Justice Hendrick's chambers in the Court House, on Chambers Street, just east of Broadway, to hear his decision as to the legal aspects of the case of individual managers against the officers and certain members of the Actors' Equity Association.

It was a decision based solely upon the affidavits of the managers, and not upon the merits of the case. Repeatedly Equity's counsel had declared that in cases involving so many people they could not prepare their case upon its merits in such a brief time and had asked for adjournment after adjournment.

But Justice Hendrick, imbued with a desire to end the strike, and apparently sincerely convinced that his decision one way or the other would have that effect, had denied the motions for adjournment, and had steadily exerted his judicial power to bring the matter to an immediate settlement.

At this time Justice Hendrick asked all the attorneys concerned to meet him in his chambers there to discuss the questions involved and, if possible, to come to an agreement on what matters were before the Court. Representing Lee and J. J. Shubert, Henry W. Savage, Winchell Smith, John L. Golden, Florenz Ziegfeld, Jr., and Charles Emerson Cook as individual managers and not as component parts of the Producing Managers' Association were Colby, Tuttle, Burkan, Klein and Gerber. For the individual actors and Equity officials, also as individuals, were Sheffield, Littleton and Turner.[12]

**New York Morning Sun,* August 25, 1919.

But if Justice Hendrick could dissociate the individual managers from the Association of which they were the component parts, and the controlling factors, the actors could not. It had been against the Producing Managers' Association and the members of it who were bound by its rules that Equity had declared war.

The Producing Managers' Association, officially, through its Secretary, L. Lawrence Weber, notified Equity that it did not intend to issue the U.M.P.A.-A.E.A. contracts or to recognize Equity further as representative of the actor. And individual members of the Association, as for instance Comstock and Gest, had declined to issue the contracts in accordance with these instructions. There was no pretense then that the voice of the Association did not pronounce the intent of its individual members.

Nor when Arthur Hopkins had told Sothern's committee ten days before that the managers would never recognize Equity, were there cries of dissent from his fellow managers.

When, therefore, the Producing Managers' Association assumed the offensive against Equity and that action not only was not repudiated, but was actively supported by the very managers who now protested their blamelessness, the actors who were their employes could not but realize that these managers intended repudiation of the contracts.

Later in a discussion with counsel as to what constituted lawful picketing, Justice Hendrick defined it as:

"Where a person simply goes on without interfering with people and with their property rights. It must be done in an orderly manner. It must not incite riot or interfere with any person's passage to and fro. They have no right to stop people on the streets to talk with them about their grievances."

Returning, then, to the question of the breaking of contracts by the actors, Justice Hendrick announced:

"The actors have a perfect right to combine together, to form a union, to join a society, and form a society such as had been formed here in the Actors' Association, for the purpose of promoting the welfare of the actors generally or individually. They can join a society and say to themselves that they will not work for an employer who does not recognize that society. That is perfectly legal.

"They have a right to make their own conditions for their own employment, and if they wish to do so, it is a perfectly legal thing and they are at liberty to do it.

"And if it confines itself to that purpose, and to having its acts conform with the law in effecting that purpose, it is a perfectly lawful, legitimate organization and not only would it not be criticized, but I think it would be approved generally by the citizens and certainly by the courts.

"That is, as to future contracts. But when valid contracts exist between individuals that contract is sacred and to induce a person to violate it for any purpose is an unlawful act. No matter what the means of persuasion may be, whether they are legal or illegal, it is unlawful.

"It is unlawful for a man by legal means to persuade another to do an unlawful act, and the violation of a contract is an unlawful act. So that if this Association counsels or aids or abets, for any purpose, an individual actor to the end that he may violate his contract for the purpose of accomplishing some ulterior object, the Association acts illegally, no matter what the purpose is.

"To appeal to an actor on the ground that he can violate his contract on the ground that there is either a moral, a legal or any other kind of an obligation higher than his contract, is an immoral and illegal act, and an appeal to any citizen to violate the laws on the ground of higher moral obligation, either to his fellow-actors or to his Association, or to whatever it may be, is not only illegal, but is un-American, opposed to all our principles of government, which is founded largely on the sanctity of contracts and the right of the individual to contract for himself. But it is anarchy if it appeals to any citizen to violate the law in response to the request or dictation of any society, no matter how powerful it may be, or attempt to maintain any laws other than the government and laws of his country.

"No fact is controverted. The actors submit no affidavits, no paper to show me that all the allegations of the complaint as fortified by the affidavits are not true."

Justice Hendrick referred by this to the managers' affidavits praying for an injunction. These were the only papers he had had submitted, since counsel for the actors had steadfastly maintained that they had not had time to prepare their case, and

did not wish to go to trial with an incomplete case. The managers' affidavits, of course, did not admit any breach on the part of the managers.

There was some further bickering as to the time for the handing down of Justice Hendrick's decision, Colby holding out for the next afternoon, while Sheffield was equally insistent that he must confer with Lane over the order which attorneys for the manager had drawn. Sheffield declared that he would not be able to see Lane until the following evening. The time finally was set at two o'clock on Wednesday, August 27.

That Justice Hendrick assumed that his decision would end the strike is not to be doubted. Referring to a settlement based upon his opinion, the Justice said:

"I have assumed that you gentlemen and Mr. Sheffield will go up and say to these people: 'Here now, you have got to stop this. The Court has decided this, and you must act this way.' Without waiting for an order I had assumed counsel would do that." *

But despite Justice Hendrick's optimism his decision had little effect on the course of the strike. It was obeyed literally by Equity, but the theatres it was designed to protect from picketing were already closed, and did not reopen even in view of the court order. The stable door had been locked too late.

THE MOVIES TRY A FADEOUT ON THE P.M.A.

Ever since the meeting of the National Association of the Motion Picture Industry which had been maneuvered by Brady and Albee into committing the Association to an affiliation with the legitimate producing managers, the motion picture industry had been seething. Several prominent members of the organization had resigned because of the action. Nevertheless the resolution had still remained in force, and with the increasing activity of Organized Labor on behalf of Equity, had become a growing embarrassment to the motion picture association.

At another meeting of the Producers' and Distributors' Branch which was held in the offices of the Association while Justice Hendrick was delivering his opinion, W. W. Irwin and Arthur Friend reported the results of their conference with Gillmore, Shay and Weber on the Friday previous.

* *Variety Daily Bulletin*, No. 15, August 26, 1919.

The leaders of the strike had received from the emissaries of the motion picture men a promise that despite the Brady resolution the Association would hold itself to a strict neutrality in the fight, and would not bar striking actors from employment. That this was not followed by a repeal of the resolution was due to the fact that a quorum was not present—but there can be no doubt but that the committee represented the sentiment of their organization. Brady was present at the meeting but was not quoted as having taken any part in the discussion.

In return for this understanding, Shay wired to all his locals, which included those of the Motion Picture Machine Operators, this promise of neutrality, and announced that any action taken by his union would be directed against individual legitimate theatres which had been closed by the strike, which might attempt to reopen with pictures, and not against the National Association of the Motion Picture Industry.*

COHAN WAIVES FIDELITY'S CROWN

The coronation ceremonies of the Actors' Fidelity League were to be held in the ball room of the Hotel Biltmore at eight o'clock. Vice-President Louis Mann appointed Ben Jonson to act as Master of Revels for the Coronation, and Mary Ryan, Howard Kyle and Alexander Leftwich were deputized as a guard of honor to escort the new Officers and Board of Directors to the Speakers' Table. Cheers bounced from the walls and tumbled back from the ceiling as, headed by Louis Mann, the Directorate installed itself behind the long table.†

But Fidelity's heart skipped a beat when it was noticed that the Head for which the crown had been destined was missing. Had George M. Cohan waved aside the proffered crown, again?

Once more, through the courtesy of the United States Postal Service, Cohan informed his loyal, though unofficial subjects, that he had not yet resigned from the Producing Managers' Association, because he was a member of the managers' committee appointed to work out the new contract, and he felt that his service there was of more value to the actors than as head of the Actors' Fidelity League.

* *Variety Daily Bulletin*, No. 15, August 26, 1919.
† *New York Morning Telegraph*, August 26, 1919.

This message plainly was not acceptable to Fidelity, and a deputation departed to inform Cohan of that fact. While they were faring forth to seek him, a resolution was adopted urging the Board of Directors to prepare a contract which should be acceptable to every member of the League, and to present that contract to the Producing Managers' Association, and ask whether that body would deal with Fidelity.[13]

Dinehart was addressing the meeting from the text of Justice Hendrick's decision when the deputation which had left to interview Cohan returned with that gentleman in tow. The President-Elect who, it was announced, had been kidnapped from his office, spoke briefly to the enthusiastic meeting, again declaring that he did not propose to attempt to carry water on both shoulders, but that he was with them in heart and would soon be with them as President. Then, as the cheers set in motion by his speech were still ringing through the corridors of the Biltmore, Cohan backed out of the room and departed. He was soon followed—by the remainder of the meeting.[14]

Considerable heart had been instilled in Fidelity earlier in the meeting by announcements that more than twelve hundred actors and actresses had applied for membership in the League. The Leaguers were also bucked up over the news that if the managers attempted to reopen their houses with Fidelity casts, an organization of outlaw stage hands and musicians stood ready to back them up.

This organization was said to be called the Amalgamated, with headquarters in Turn Verein Hall on Fifty-Sixth Street, and was affiliated with the National Labor Council, which was not connected with the American Federation of Labor. Membership in this body was confined, according to advices from the American Federation of Musicians, and the International Alliance of Theatrical Stage Employes, the regular union labor organizations, to musicians and stage hands who had been expelled from the Federated organizations or who had failed to meet the requirements for entrance.*

It was an interesting rumor but the strength of the outlaw body was never put to a test as the managers did not try to open any more houses during the strike, even though protected by Justice Hendrick's decision.

* *Variety Daily Bulletin*, No. 15, August 26, 1919.

Chapter XVI

NEW YORK STATE FEDERATION BACKS THE ACTORS

When the Fifty-Sixth Annual Convention of the New York State Federation of Labor convened in the Hotel Onondaga, Syracuse, New York, on Tuesday, August 26, actors were seated on the floor as duly accredited delegates for the first time in the history of the labor movement.

As soon as Governor Smith had formally opened the session, Charles C. Shay obtained the floor and informed President James P. Holland, who was in the chair, that three delegates of the Actors' Equity Association were present.

Ed Wynn, Marie Dressler and De Witt C. Jennings, made their way to the rostrum, and the meeting rose and gave them a royal welcome. After each of the trio had spoken, the convention adopted resolutions declaring the Actors' Equity Association to be the only organization of legitimate actors recognized by Federated Labor, and extending the sympathy and support of the convention to the actors in their struggle with the producing interests.

Later a committee was appointed to consider the actors' strike and the relative positions of allied crafts which might become involved in it. This committee, which was composed of James M. Lynch, State Industrial Commissioner, Charles C. Shay, President, and James Lemke, General Organizer of the I.A.T.S.E., Ernest Bohn, Secretary of the New York City Central (Council of the) Federation of Labor, Edward Canavan, of the American Federation of Musicians, Robert Brindell, of the Dock Builders' Union, and De Witt C. Jennings of the Actors' Equity Association, was instructed to make a survey of the strike situation and was empowered to report back to the convention with recommendations.[1]

At this point a delegate from the Union of Teamsters, Chauffeurs, Stable Men and Helpers, took the floor and announced that his organization, after a conference of the Joint Council, had

voted to refuse to haul trunks and scenery for managers unfair to "our several organizations." [2]

The new organization of playwrights which, on the afternoon before, had announced that it intended "To show both the actors and managers that we mean business," came to an abrupt halt with that one gesture. Its grievance committee, authorized to take any step it saw fit to end the strike, had been notified that Governor Smith was willing to confer with it as to steps which might be taken. But the committee, without even meeting Governor Smith to see what might be up the gubernatorial sleeve, decided that the best way was to do nothing whatever.* Certainly this strict neutrality would probably leave fewer scars for the future to heal, and might effect their business less than active participation in the contest.

So the playwrights after much well-intentioned activity, and a considerable beating of drums, dropped from the picture as peacemakers, and the battlefield was once more left to the contestants.

SAMUEL GOMPERS LINES UP WITH EQUITY

The Equity General Meeting which came to order at two o'clock in the Lexington Avenue Opera House, was, to all outward appearances, an enthusiastic, optimistic, untroubled affair; but it was an afternoon of great strain and uncertainty to those in charge.

Word had been received that the U.S.S. *George Washington* had just dropped anchor in the bay, and aboard that historic trans-Atlantic ferry was Samuel Gompers, President of the American Federation of Labor, returning from the Peace Conference at Versailles where he had served as the head of the Labor delegation from the United States.

Both Equity and the managers were hot on Gompers' trail to capture him for his first public appearance on American soil, and to present their side of the case to his ears first. The slightest expression of opinion as favoring either side would, it was well known, carry enormous weight in labor circles.

Gompers was keenly interested in the theatre, went often, and was a personal friend of several producing managers. Incredible

* *New York Tribune,* August 27, 1919.

as it may seem to those who knew Samuel Gompers and his single-minded devotion to the cause of American labor, the managers believed that they could reach him through this friendship, and induce him to use his influence to end the strike. Failing this direct action the managers hoped that he might be persuaded to order or advise the return to work of the stage hands and musicians. So, with their theatres once more open and their casts manned by members of the Actors' Fidelity League, the Actors' Equity Association might sink immediately or gradually dissolve through successive desertions, but its end would be certain.

A delegation of producing managers armed with Justice Hendrick's decision, which the managers assumed would determine the strike as illegal in Gompers' eyes, went down to Quarantine to secure the first interview with the President of the American Federation of Labor.

Gompers' adopted daughter, Pearl Sindelar, an ardent and effective supporter of Equity, was likewise on the press boat which went down to meet the transport. Frayne, all through these times a tower of strength to the actors, had also been in communication with Gompers.

So the Equity leaders were confident that the steps they had taken in conjunction with other bodies of the Federation would be approved. They could not know, however, whether Gompers would be able to land, attend the conference with other labor leaders, and still have time to lend the tremendous prestige of his presence to this meeting.

By every device practicable the meeting was spun out—and still there was no word from Mr. Gompers.

The stand taken by the stage hands and musicians in walking out in support of the actors was lauded by Gillmore who said: "They have no complaint. It was the most altruistic, most unselfish action I have ever known." [3]

This announcement drew from Harry C. Browne, Chairman of the Finance Committee, the declaration that Frank Gillmore, the only Equity executive who was drawing a salary from the Association, was turning every cent of it back into the treasury for the duration of the strike. The meeting received this news with enthusiasm, and then sat back and waited for the next move.[4]

Wilson had played his last trump. With no word from Gompers he concluded that he could not hope for the attendance of the veteran labor leader at this meeting. Advancing to the footlights he confessed:

"I have tried to stretch out the speech-making this afternoon in the hope that I might be able to give you a genuine surprise. I thought that we might have the pleasure of having Mr. Gompers with us this afternoon, but it seems that he has been unavoidably delayed."

Hardly had the words left his lips when a cry from the rear of the auditorium halted his signal for the dismissal of the meeting. A short, square, stocky figure had walked into the lobby. Albert Barrett seated near the door had recognized the newcomer, his was the voice which arrested Wilson.

"Wait, Mr. Wilson," he cried, "Mr. Gompers is here. He will be on the stage in a moment."

During Gompers' progress to the stage the meeting was in a turmoil. Applause such as had greeted no other person since the calling of the strike was showered on him as he finally walked to the footlights. Francis Wilson called for one minute of silence, explaining that Gompers was tired.

"Your Chairman has said that I am tired," he began. "I'm not tired. I'm hungry."

And then, plunging into the heart of the matter, he proceeded to place the great resources and power of the American Federation of Labor squarely behind the Actors' Equity Association by saying:

"Whatever influence or power there may be in the great American Federation of Labor to help you, rest assured that power and influence is behind you until the end. Bear in mind that every service the American Federation of Labor can render will be cheerfully and cordially given to the end that you may be successful in your fight for justice.

"Now, every well informed American knows that in the Constitution of the United States and in the Constitution of each state in the union, it is declared and guaranteed to every citizen the right to be heard in court by counsel. In other words, the constitution recognizes the right and principle, for average men

and women are not able to defend themselves when opposed by legal skill. No one will dispute how important is this guaranteed right I quote as applicable to this situation.

"When the time comes for pleading your case with those who have control of your lives and destiny, your heart is apt to become faint with weakness and your tongue is unable to give utterance to the thoughts in your mind. Therefore, you select those able and competent to present your case. You have the right to be heard by counsel of your own choice. In this case, the Equity is your counsel.

"I know something of the lot of the actor and of the theatrical profession, and I must make this declaration, no matter what interpretation anyone may put upon it, that all men and women in the professions who work for salaries or wages have the right to sit in the councils which determine their pay and the conditions under which they work."

And then in a warning tone this veteran of many strikes added:

"The future depends not upon the managers but upon you. Many a good cause has gone a-glimmering because of the failure of the men and women to maintain the spirit of the cause. If you now maintain that spirit and, for whatever length of time it may last, make up your mind to stick, nothing in the world can prevent your success. If you have not made up your minds to do that, it would be better if you had not begun at all. You have aroused the managers to an understanding of your power. They are alert. But they have not only their own brains, they can buy brains by the pound.

"As sure as life and death, if you weaken, the treatment you received in the past will be as nothing compared to that which you will receive in the future." *

In this dramatic appearance and short speech the strike had reached its climax.

Within two days of the delivery of this speech on that hot August afternoon, the conference which was to end the strike was under way. But at the moment all that the managers could find to say in rebuttal was:

"In view of the fact that Mr. Gompers had neither time nor opportunity to acquaint himself thoroughly with all the facts of

* *Variety Daily Bulletin*, No. 16, August 27, 1919.

the present situation, the Producing Managers' Association refrains from making any comment on his precipitate stand." *

Whatever nourishment the managers may have drawn from their belief that Mr. Gompers might be induced to take a less militant stand with regard to the theatrical strike was considerably diluted when the first thing next morning (Wednesday, August 27), newspaper men followed on the heels of A. L. Erlanger in calling on Gompers at the Continental Hotel and asked him whether he really had meant what he had said in pledging labor's support to Equity so wholeheartedly.

"I always stand by every statement I make," Gompers replied. "The attitude of the managers in refusing to meet the actors or recognize their right to collective representation is unwarranted and unjust. In that position I'm going to support the actors, and every resource of the American Federation of Labor will be used to aid them in winning their strike." †

In the light of that announcement Justice Hendrick's formal signature of the injunctions against Equity's President, and other Officers and members of the Association, prohibiting them from picketing or interfering with certain defunct plays, was something of an anti-climax.

There was in that injunction, however, one paragraph which did not receive the attention it deserved either at that time or later. Bearing in mind that the managers hailed its issuance as a notable victory it is strange that so little notice was given to a section in which Justice Hendrick, declaring that the Actors' Equity Association had coerced its members to break their contracts with the managers and walk out of their parts, asserted that: "The Actors' Equity Association is a third party to the contracts at issue." †

This was the cornerstone of Equity's defense—that Equity was a party to all contracts as representative of the actor, and that in refusing to recognize Equity in that capacity the managers had themselves automatically breached every contract in which that clause was included. Yet Justice Hendrick, in an injunction granted to a manager against Equity, recognized that representation as the basis for a penalty against the Association.

* *Variety Daily Bulletin*, No. 16, August 27, 1919.
† *Ibid.*, No. 17, August 28, 1919.

The foundation of the most damaging decision yet obtained by the managers was the establishment of the justice of Equity's contentions.

In the afternoon the Producing Managers' Association met to set its seal of approval on the contract which was to be offered to the Actors' Fidelity League, and to bid Farewell and Godspeed to George M. Cohan who was to bear it to the camp of Fidelity and thence, presumably, to victory over the dead body of the Actors' Equity Association.[5]

On this contract the managers now pinned their hopes. If Gompers maintained the stand he had assumed, and although the managers asserted that they still hoped to convince him of the error of this position in view of Justice Hendrick's ruling, they realized undoubtedly the probability of failure, only a stampede from Equity would halt a complete victory for the actors, and a speedy one. And so the managers packed the contract with every inducement at their disposal.

THE CORONATION OF GEORGE M. COHAN

It was late when this meeting ended and Cohan went almost directly to the coronation ceremony in the ball room of the Biltmore Hotel. All the forces of Fidelity had been mobilized to make this an impressive occasion. Behind the Directors' Table sat, among others, David Warfield, Willie Collier, Louis Mann, Minnie Maddern Fiske, Janet Beecher, Holbrook Blinn, Lenore Ulric, George Macfarlane, Julia Arthur, Gladys Hanson and Howard Kyle, and below them in the body of the room, hundreds of the managers' best shock troops.[6]

But Cohan had not arrived when the ceremonies got under way and those in charge had no idea when he would come, or even that he was sure to come at all, and they were, in consequence, upon a very uneasy seat. This was scheduled to be a coronation and such a ceremony was practically ruined without someone to crown.

And so, as Equity had done a little earlier, they trotted out speeches, reports and all the other devices for consuming time, in the hope that their lost leader would make his appearance before boredom set in.

They had even run so far out of material that Janet Beecher was beginning to read an editorial from the *New York Times,* but Miss Beecher once more found herself cut off before she had well begun. It was her fate to begin her pieces just prior to Cohan's triumphal entries and, before the roar of welcome which greeted him at each appearance, any speech would have gone down. Miss Beecher subsided.[7]

Cohan, though he had taken several days to come to the point of leaving his head where a crown could be set upon it, was in no mood to postpone the coronation now that he had gotten around to it. As, for several minutes, the demonstration roared its way he attempted to arrest it, even going so far as to seek to take the gavel from Louis Mann's hand to pound for order.*

But Mann had his own ideas as to the proprieties, and protested vocally and audibly that he should be allowed to present it formally and correctly. And the gavel was still in his grip when the meeting became quiet enough for a good strong voice to be heard above it. Then, gravely, he bestowed the insignia of office upon Cohan, saying:

"I have said that it would be the happiest moment of my life when I did this, and it is. May it ever guide you to guide us well." *

"I come to you not as a manager, but as an actor," Cohan began. "I have resigned from the Producing Managers' Association. I shall do all in my power to guide you. You tell me what you want me to do, and I'll go ahead and do it. We all know what we want—it's the theatre—and a return to the old days. We want those who have been misled. We must have friendly relations with our managers and our associates, and we want no weapons over our heads.†

"I have here the salient points of a new contract which I am going to present to you tonight. Before I left the Producing Managers' Association room this afternoon I was given full power to get you whatever you asked for, within reason ‡—and what that was, was put up to me to decide!" §

* *New York Tribune,* August 28, 1919.
† *New York Morning Sun,* August 28, 1919.
‡ *Variety Daily Bulletin,* No. 17, August 28, 1919.
§ *New York Morning Sun,* August 28, 1919.

Cohan then read the essential terms of the contract which the managers thought would bring Equity members running.

"That eight performances shall constitute a week. Additional performances to be paid for on a basis of one-eighth salary.

"That dramatic companies shall rehearse four weeks. For additional rehearsals the artist shall receive full salary.

"That all costumes, wigs, shoes and stockings shall be furnished the chorus by the manager.

"That in both dramatic and musical companies all artists' gowns shall be furnished by the manager.

"That salaries be paid on Saturday night.

"That if a play be rehearsed less than ten days and abandoned by the manager, the manager shall pay the actor one week's salary.

"That if an actor be reëngaged for a part, he shall not be subject to the ten-day probationary clause.

"That in case of dispute or claim of contract violation, the dispute or claim shall be submitted to arbitration. The manager shall choose one arbitrator and the artist a second. If within three days these arbitrators shall not agree, then within that time they shall choose a third, a person not in the theatrical profession. The decision of a majority of said arbitrators shall be binding and no suits shall be brought after the arbiters' award has been made in writing." [8]

When Cohan had reached the end of these concessions he leaned far over the table before him and waved the new contract in the face of the audience.

"Let me tell you one thing," he shouted. "I don't want to pin any bouquets on myself, but don't let anyone tell you that the Actors' Equity Association is responsible for this! I'm responsible!" *

While the demonstration which was the only possible answer to this assertion takes its course, let us examine this document to ascertain what it represents.

At first glance the new contract, for whose sponsorship George M. Cohan is receiving all these plaudits, appears to offer all, and more, than Equity is seeking.

But the managers, aware that this new organization may, if all goes well, some day occupy a position similar to that now

* *New York Times*, August 28, 1919.

maintained by Equity, have carefully withheld the power to enforce the contract here granted. In the clause covering arbitration of claims the arbitrators are specifically restricted to individuals, and neither Fidelity nor any other organization can appear for the actor. Thus the actor will be perpetually at the mercy of the managers and all save the most important can be disregarded. There will be no particular benefit to Fidelity members, since this contract is promised to all actors who will accept it. The new contract offered with such a flourish as a weapon of defense against managerial aggression has been completely and methodically spiked by its makers.

As for Cohan's claim to credit for obtaining these concessions, and not Equity, Cohan has been a member of the Producing Managers' Association since Equity first asked for some of the terms now granted. If Cohan has been aware all this time of the justice of those requests, and has possessed the influence with the managers he admits now, he could have prevented the strike and maintained peace in the theatre by exerting it then, and getting for Equity what he is now throwing at the feet of Fidelity. And Cohan would have received far more credit for doing that difficult and dangerous deed than he can hope to obtain by leading a company union.

There can be little genuine doubt that if Equity had not shown such strength and staying powers the managers would never be giving those terms to Fidelity or anyone else.

In all the contests between managers and actors no manager ever volunteered a concession which would in any way diminish his power or prerogatives. Where any concession has been made by the manager it was forced in its entirety, or was put forth as a compromise to avert a further concession. If Equity had lost the fight at this stage, it would still have been responsible for the contract obtained by Fidelity.

When comparative quiet had been restored Marjorie Wood obtained the floor and called for: "A vote of thanks for George M. Cohan for what he has done for us before he became our president." *

It seemed that the previous demonstration was about to be

*New York Tribune, August 28, 1919.

resumed but Cohan had heard enough cheers for one evening. Accordingly he swung hard with his gavel and announced:

"I think we're going to get along better with silence. Let's do away with this hurrah, and stop cheering ourselves. If you've got something to say, say it in a telegram. Let's talk like real Americans. Let's get back to the old pep!"

He pointed a finger and thumb at the audience, and simulated the action of a revolver. "Bang, bang, bang!" he shouted, and his demonstration was received with delight.*

THE GREAT ABNEGATION SCENE

The program arranged by the steering committee now called for the Great Abnegation Scene, Passing Up the Hundred Thousand Bucks to prove that Fidelity wore no man's collar and would look to no manager for money.

But even as Willie Collier rose to his feet fingering the check, and clearing his throat to call attention to his desire for the floor, Louis Mann made the tactical error of asking whether the meeting had any suggestions for its future course of action.† In the audience a voice was lifted:

"Get together with Equity," it called, and the room was filled with uneasy mutterings. In an instant Cohan was on his feet.

"Get together with nobody," he retorted.‡ "We're going to stay right where we are. This isn't any fence organization, and I took it on myself this afternoon to tell several managers that no matter whether they compromised with Equity—or what they did—we actors are going to stick right where we are."

And then blowing aside the smoke screen of his resignation from the Producing Managers' Association (as an earnest that he had severed his connection with managerial interests), in order that he might as an actor lead other actors, Cohan announced:

"I have been asked if I have resigned from the firm of Cohan and Harris. I have not." †

There was then this business of the hundred thousand dollar check to be disposed of. Several days ago the Board of Directors

* *New York Morning Sun*, August 28, 1919.
† *New York Tribune*, August 28, 1919.
‡ *Variety Daily Bulletin*, No. 17, August 28, 1919.

of the Actors' Fidelity League had voted to refuse it. It was to report this fact that Collier had risen immediately before the flurry caused by the suggestion of getting together with Equity.

Collier's official refusal was supplemented by Mann's declaration that all the money necessary for the League would be raised by "the most monstrous benefit ever known in the theatre," * and he suggested that after having the check photographed for the benefit of the newspapers, it be framed and hung in the great clubhouse which Fidelity would build.[9]

But something went wrong with the program at this stage. Somebody on the platform was heard to suggest giving this money to the Actors' Fund of America, the theatre's official charity, instead of returning it to Cohan, and the remark was made loud enough to be heard in the audience.

Immediately Cohan seized upon it and made the suggestion his own.

"You'd better send it to the Actors' Fund," he asserted. "Because if you don't I'll send another check to the Fund in the morning for $100,000 in the name of this organization." † Then, reverting to the original offer he continued: "I want you to take that $100,000. I think it was a great thing when this society refused that hundred thousand dollars but I want you to take it.† I told you I'd give a hundred thousand dollars to this organization, and I've given it. And if you want another hundred thousand you can have it—and another—and another—and another—and another! That's the kind of a little guy I am."‡

The meeting proceeded to vote the check to the Actors' Fund of America.[10]

By now it was half past ten and the meeting, conscious of a full evening in which it had crowned a King; received such a contract as never before had been granted in the theatre; and had generously waved aside a king's ransom, with the pleasant realization, however, that there was more where that came from, decided to call it a day, and voted to adjourn until Saturday night.

So at last, all the attractions of this decoy duck of the Produc-

* *New York Morning World,* August 28, 1919.
† *Variety Daily Bulletin,* No. 17, August 28, 1919.
‡ *New York Times,* August 28, 1919.

ing Managers' Association were on display. Here was a solvent organization headed by an immensely popular actor, containing many of the great names of the theatre, and offering a better contract than Equity had sought. All that was asked in return for the benefits conferred on its membership was repudiation of the Actors' Equity Association. If a sufficient number of Equity members could be induced to consider these points alone, and disregard the circumstances which had led to the offer, and the previous record of such organizations, wholesale desertions in the next few days might wreck Equity and win the strike, as Albee's National Vaudeville Artists' organization had won for the vaudeville managers in 1917. But if, on the other hand, Equity was not immediately and badly hit, and was in a position to maintain its vigorous offensive a little while longer it would be able to win terms equally good, or better, for itself.

In the next day or two, therefore, the contest would not be over the opening or closing of theatres, but for the membership of the Actors' Equity Association.

The special committee which had been appointed by the Convention of the New York State Federation of Labor at Syracuse on Tuesday to investigate the actors' strike, reported back to the convention on Thursday, August 28. It suggested that the dispute between the Actors' Equity Association and the Producing Managers' Association be laid before the State Industrial Commission for public hearings, and that the findings and recommendations of the Commission be broadcast.[11] This report was accepted by the convention without a dissenting vote, and following hard upon its acceptance further support to Equity was offered by delegates of the Teamsters' and Billposters' Unions. For the teamsters not only was there a repetition of a previous pledge not to haul any baggage or scenery for managers on the unfair list, but twenty touring cars were placed at the disposal of Equity at any hour of the day or night for the duration of the strike.[12]

For the Billposters, William McCarthy, secretary of the International Alliance of Billposters and Billers of the United States and Canada, announced that 9,000 members of this organization would refuse to post bills for non-Equity theatres or to recognize non-union stage hands or actors.*

* *New York Call,* August 29, 1919.

A positive legal victory was scored by Equity when Judge Julian W. Mack, in Federal District Court, postponed for one week the hearing of arguments on the motion in the suits brought by the Winter Garden Company against Equity's officers and one hundred and eighty-four members, living and dead.

Following his announcement to reporters that he had meant every word he had told the Equity meeting at the Lexington Avenue Opera House, Gompers had departed for Washington, D. C., to confer with the Executive Council of the American Federation of Labor. With him went Gillmore, Weber and Shay, to acquaint the Executive Council with the theatrical situation and to obtain its official endorsement.[13]

Hot on their trail were Arthur Hopkins, representing the Producing Managers' Association and George M. Cohan for the Actors' Fidelity League, still hopeful that another presentation of the managers' case would prove more efficacious than previous ones had been.

Chapter XVII

THE HIPPODROME BECOMES A CASUALTY

The New York Hippodrome had opened without opposition from Equity. True, the manager was Charles B. Dillingham, a member of the Producing Managers' Association, but the theatre was owned by the United States Realty and Improvement Company, an arm of the Fuller Construction Company, and the policy of the house, two shows a day, had presumably placed it in the class of vaudeville, against which no demonstrations were being attempted.

There was, then, very great excitement when a long distance telephone message from Washington notified the stage hands that the house had been placed on the unfair list, and that they were not to go on that evening. The huge and diversified entertainment dispensed under the title of "Happy Days" employed four hundred and twelve stage hands, and without them the seven hundred and twenty principals, chorus girls, ballet, riders, divers and others on the bill or in the house, were of little value. The doors were locked and patrons who had bought their seats ahead were requested to come back the next day at eleven in the morning for their money.*

Speculation over this move was increased by the fact that it was not made through the actors but was precipitated by the stage hands on instruction from Washington. Many of the managers saw in it an indication that the control of the strike was passing from the hands of the actors and their representatives into those of the stage hands and other allied unions. This was an outcome often prophesied by the managers, and the *New York Review,* devoted two columns of its front page on Saturday to gloomy predictions of yet further tyranny to be imposed by the stage hands or other unions.

"In joining the American Federation of Labor the Actors' Equity Association sowed the wind and now is beginning to reap the whirlwind," the *Review* declared with evident satisfaction.

* *New York Morning Telegraph,* August 29, 1919.

Photograph by Press Illustrated Service.

The Legal Department at Strike Headquarters preparing a defense for the Winter Garden suits. Among those in the picture are: Robert Kelly, W. B. Rubin, Harry Hirshfield, Tom McLarnie and Mona Kingsley.

Photograph by Pacific and Atlantic Photos, Inc.

The line-up at the box office of the Hippodrome on the morning after a sympathetic strike of its four hundred and twelve stage hands forced the closing of "Happy Days."

"Equity misleaders thought they could take benefits from union labor without giving anything in return, but events of the last couple of days point out that they have made a great mistake, the full onus of which will soon be felt. The red flood which they called to their aid is about to engulf them.

". . . The strike situation has been lifted squarely out of the hands of Equity officials and is being controlled by representatives of the American Federation of Labor, so that henceforth the actors will take their orders from labor leaders and will not even have the chance to follow their own misguided leaders.

"Thus has began (sic) retribution for sullying the actors' calling by wholesale contract breaking. Where it will end no one can tell except that there is certainty that henceforth the Actors' Equity Association will be a mere pawn in the game played by the A. F. of L., and the one time chesty, scornful, snobbish, contemptuous 'artists' who were wont to look down on the working man, will be absolutely at his mercy, and compelled to do his bidding.

"One reason for the stand taken by the labor leaders is that they recognized that by the organization of the Actors' Fidelity League and its recognition by the Producing Managers' Association, Equity was losing its fight and soon would disintegrate, its members rushing to cover in the new organization.

"Such a situation would leave the sympathetic strikers high and dry with nothing to sympathize with, or strike for, so they concluded to assume command of the situation themselves at no matter what cost to the actor.

"Thus Equity is falling into the grave which it dug for the managers." *

While much of this allegation, especially that part concerning the success of the Actors' Fidelity League, was a hope fathered by the wish that it might be so, there were enough auxiliary circumstances to give some color to these claims, and to cause considerable uneasiness to many Equity members.

For one thing, when the call to the stage hands went out from Washington, Equity's leaders in New York were wholly unprepared for the walkout and admitted that they had not known it was to take place.

It was a great surprise to those in charge of the Lexington Avenue Opera House Show and to the hundreds who had gathered at the Equity Ball at the Hotel Astor, still later, when Marie

* *New York Review*, August 30, 1919.

Dressler walked on, announced that the Hippodrome was out, and presented some three hundred of the "Happy Days" chorus who paraded to the strains of "Hail, Hail, the Gang's All Here," much to their own delight and with the acclaim of those who watched them.*

As a matter of fact the stroke was planned and delivered at the instance and under the full control of Frank Gillmore. When the news of Cohan's offer of $100,000 was relayed to the strike leaders in Washington, Weber said at once: "We've got to answer this." The Hippodrome closing was Equity's answer.

For Equity to have called out the principals through Strike Headquarters would have been an encroachment on the jurisdiction of the American Artistes' Federation, for the two-a-day policy of the house had caused it to be classified officially as vaudeville. And Equity had no intention either of trespassing on the preserves of the A.A.F., or of asking for such a commitment from Mountford and Fitzpatrick.

But Equity claimed jurisdiction over the chorus, and it would be entirely ethical to suggest to one of the stage hands' officials that he should suggest a chorus walkout to Marie Dressler. And, if the chorus went out, the stage hands and musicians could go out in sympathy.

It was a roundabout way of getting results but at the time it looked like the best bet. And certainly it worked.

For the United States Realty Company was not a member of the Producing Managers' Association; it was not threatened with the cancellation of future bookings if it made terms with Equity as many of the Independent producing managers were; nor had it been committed to a finish fight by previous statements which called for backing up with actions.

But a note even more ominous than this now sounded in managerial ears. "Up from Nowhere," was suddenly closed at the Shubert-Belasco Theatre, Washington, D. C., by a walkout of stage hands and musicians just before curtain time.[1] Its producer, John D. Williams, was an Independent manager, and the cast was one hundred per cent Equity, but the piece was playing in a Shubert house, and was booked to open the following week in the Comedy Theatre, New York, another Shubert shop.

* *New York Daily Illustrated News*, August 29, 1919.

Gillmore was more than a little interested in this closing for in "Up from Nowhere" was his elder daughter, Margalo, who had not so long before made her début on the stage. He tried to see her, both at her hotel and at the theatre, but missed her both places. And there was so much that required his presence that he could not sit down and wait for her at either place.

For all he knew he was stranding his daughter in Washington. So he tucked a $20 bill in an envelope and left it at the theatre, while he turned back to his own work again.

The ominousness of this closing was that it was taken by all concerned as an earnest that the American Federation of Labor, having committed itself to the cause of the actor, meant to push the fight vigorously. Hitherto hostilities had been confined to the major theatrical centers, New York, Chicago and Boston. The road companies and companies in other centers had not been called upon.

Here was a warning that this policy would no longer be continued and that the war would be carried into every theatre in the country controlled by a member of the Producing Managers' Association, or from which such a member could profit, and that these sources of income would be speedily eliminated if a settlement was not quickly effected with Equity.

Hence this cloud on the theatrical horizon in Washington coming, as it did, "Up from Nowhere," loomed blacker and more menacing to the managers than even the darkening of the big Hip.

SURRENDER OF THE HIP

The United States Realty Company had no stomach for a finish fight with the American Federation of Labor. That much was clearly indicated when early the next day (August 29), Charles B. Dillingham submitted his resignation to the Realty Company and it was immediately accepted. Dillingham's position was that:

"Rather than keep 1,100 people out of work, I will strike myself, and hereby tender my resignation as manager of the New York Hippodrome, to take effect immediately." *

* *New York Morning World*, August 30, 1919.

Freed of the complications occasioned by Dillingham's membership in the Producing Managers' Association, the United States Realty and Improvement Company at once set about negotiating a separate peace with the Actors' Equity Association and its allies.[2]

During the afternoon Arthur Hopkins and George M. Cohan returned from their mission to Washington, and reported to the Producing Managers' Association the results of their conference with Gompers at the Capital.

In response to questions from newspaper men as to what Gompers had said in reply to their presentation of the managers' side of the dispute, Hopkins said:

"It was a personal talk, and I cannot be quoted on Mr. Gompers' opinions, but he assured us that he had learned more of the situation than he had known before."

But when Mr. Hopkins was asked if he was elated as a result of that conference he thought for a moment, and then answered briefly:

"No, not just that."

How much more Gompers had learned from Hopkins and Cohan was evident from a statement he issued in Washington, after their departure.

"It is true that George M. Cohan and Arthur Hopkins called on me yesterday at the offices of the American Federation of Labor," he admitted. "They presented to me the Producing Managers' version of the controversy with the Actors' Equity Association. Inasmuch as I had had a conference on the day before with A. L. Erlanger at the Continental Hotel, New York, I was familiar with the managers' contentions.

"I told Mr. Cohan and Mr. Hopkins that the position of the producing managers was inconsistent, inasmuch as they had organized another so-called association of actors, the Fidelity Association. I urged them to recognize and adjust their differences with the Actors' Equity Association." *

THE FIRST FLAG OF TRUCE

The reply of the Producing Managers' Association to that friendly advice to get together with their adversaries, was the

* *New York Morning World,* August 30, 1919.

publication of a bitter attack upon the union of the stage with Labor, a prediction of ruin for the theatre if it continued, and a repetition of the statement that in opposing the actors the managers were saving them from themselves.

In the face of such an assertion as:

"The actor . . . cannot serve two masters, the Theatre and Unionism,"

the statement concluded with

"The Equity officials have repeatedly claimed that the managers are fighting the American Federation of Labor. The charge is either stupid or malicious. The managers have worked in perfect harmony for the past twenty years with the Federation of Labor, and are scarcely seeking a quarrel now." *

This attack was launched despite the fact that immediately following upon the conference between Cohan, Hopkins and Gompers, the Producing Managers' Association had instructed Messrs. Colby, Tuttle, Auerbach and Burkan to get in touch with Sheffield and Turner to conduct negotiations regarding the legal problems incident to a settlement of the strike. At the time this statement was issued these joint committees, bound by a pledge of secrecy, were even then conferring in the rooms of the Bar Association on West Forty-Fourth Street.

Pretty generally in this time the managers were represented only by counsel, though these latter were in close communication with their clients at all times. For Equity, Gillmore in addition to counsel, attended the meetings as often as the pressure of conducting the campaign permitted.

And so it was with this undercurrent, unfelt at first, but steadily becoming stronger, and more perceptible, that the fight entered its last quarter. Gradually the knowledge of these under cover negotiations became an open secret on Broadway, though officially no cognizance was taken of them, and the managers, whose representatives were endeavoring to bring order from the legal chaos induced by the maze of suits in the courts or pending, continued to proclaim that they would never recognize Equity, or discuss terms with its leaders.

* *Variety Daily Bulletin*, No. 19, August 30, 1919.

A TASTE OF VICTORY

The formal peace pact between Equity and its allies and the New York Hippodrome was signed at noon on Saturday, August 30. By its terms the United States Realty and Improvement Company recognized the Actors' Equity Association as the representative of the actor, and the Chorus Equity Association as the representative of the chorus man or girl. A further concession was the establishment of $35 a week as the minimum wage for the Hippodrome chorus. This was the sum which Equity had set for road productions but it was allowed because of the twelve performances which was the Hippodrome standard week. The agreement was signed by Frank Gillmore and Marie Dressler for Equity and Mark Luescher for the Hippodrome.

The moral effect of the victory would be hard to overestimate. An important and representative producing organization had recognized the legitimacy of Equity's claims, and was about to resume a profitable business because of that recognition. That thought would be increasingly difficult to repress in the minds of other managers. An actual breach had been effected in the managerial ramparts—no more could they point to absolute unity in the face of alleged outrageous demands.

For the actors the settlement with the Hippodrome was a thrilling and exhilarating stimulant. No longer was victory an intangible hope in the indefinite future. Here was a management which had actually surrendered. If one could be made to yield, others could also be forced to haul down their ensigns by the application of sufficient pressure.

And so, although over the closed doors of the Hippodrome there still swung this sign:

"NOTHING DOING"

TWICE DAILY
AT THIS THEATER
UNTIL FURTHER NOTICE

there was a riot of rejoicing at Strike Headquarters and in the streets before it when word was received that the agreement actually had been signed.[3]

In the course of the day the Equity Council published a reply to Hopkins' cry that the theatre was being ruined by the introduction of unionism among the actors. In that reply the Council suggested with considerable acerbity:

"Mr. Hopkins . . . should not confuse the lowering of the managerial bank balance with the vitality of the theatre. The members of the Producing Managers' Association, in their arrogance, seem to think that their theatres are the theatre." *

The first of the answers to the suit of the Winter Garden Company against Equity's officers and nearly two hundred members, was filed in Federal District Court by Sam Bernard, one of those defendants. In his answer Bernard denied absolutely the allegations made by the Shuberts. He asserted that he had not made any threats or intimidated any of the Shubert employes, and that he was not engaged in a conspiracy against any theatrical producers.[4]

Apparently Equity's insistent repetition of the charge that the arbitration clause of the new Fidelity contract would prove to be a broken reed at a time when the actor employing it would be in need of a shillelagh, had gotten under the skin of those responsible for it.

When Cohan read the whole contract to a Fidelity meeting at the Biltmore for the first time it was found that this particular clause had been radically revised. Previous to this meeting Cohan had thrown out several hints that he would have something startling to announce with regard to it, but there was still very general surprise when he read:

"Nothing herein shall be construed as prohibiting any party to this contract from selecting as his arbitrator an association instead of an individual; but only one person selected from such an organization shall act as the arbitrator representing the party who has designated the association as his arbitrator." [5]

Unrolled from its legal wrapping this clause conceded that any member of Fidelity—and presumably it would be equally applicable to Equity—could designate his organization to appear for him in an arbitration proceeding.

* *Variety Daily Bulletin*, No. 20, September 2, 1919.

This was a long step back from the position taken by the P.M.A. immediately before the strike. One of the rocks on which the split had occurred had been its insistence on the elimination of Equity, or any organization, as representative of the actor in an arbitration action.

Now, along with the eight performance week; the limited rehearsal period; and others of the long list of objections raised at one time or another by the managers, arbitration through an association was conceded. There remained then only the denial of recognition to Equity.

They were not ready to grant this yet. Reporters who sensed the meaning of this concession asked Arthur Hopkins, who had addressed the meeting, if this might be construed as recognition of Equity.

"No, we would have to enter into a contract with Equity to recognize it," Hopkins answered. Even this was somewhat milder than his usual answer to the question of Equity recognition, which had, until this time, been:

"We will never recognize Equity." *

One of the incidents of the meeting was the presentation by Cohan for Fidelity, of his check for $100,000 to Daniel Frohman, President of the Actors' Fund of America. It isn't every day that a strike drops one hundred thousand dollars into the lap of even such a deserving charity as the Actors' Fund, and Frohman was deeply appreciative of it, for the good it could do would be enormous.†

THE RAID THAT DIDN'T MATERIALIZE

At this point a breathless messenger scurried onto the platform, and between gasps informed Cohan that an Equity raiding party armed with bells, horns and other riotous weapons was on its way to break up the meeting. Fidelity's President had no wish to see his meeting rung out in any such fashion and suggested an immediate adjournment. The meeting did adjourn at top speed.

When the raiders failed to materialize newspaper men who had been covering the meeting undertook to learn what had happened to them. A call at Equity Headquarters disclosed that no one there even knew of such a project.[6]

* *New York Daily Illustrated News,* September 1, 1919.
† *New York Morning World,* August 31, 1919.

They had run away from a phantom of their own conjuring.

Still there was one triumph the managers won that evening. On the Chicago front George C. Tyler succeeded in opening "On the Hiring Line" at the Blackstone Theatre. Laura Hope Crews headed the cast of the production, which had been delayed a week, and there were no union stage hands, musicians or actors in the house. But the play required only one set, and a girl pianist and a girl violinist played at being the house orchestra while twenty-five guards circulated about, through and in front of the house. The theatre was picketed, but the attendance was quite good, especially in the orchestra.*

Against that managerial victory, however, could be set the midnight meeting of nearly three hundred Equity members in six shows playing in Boston, which voted unanimously to strike on Monday,[7] Labor Day, one of the most prosperous on the Boston calendar.

Despite this action the managers of those attractions continued their ticket sale for the following week. Although the actors had never failed to make good any such threatened drastic action, still there was the hope that this time they might be bluffing, or could be halted by court action. At any rate, the managers were not refusing any money.

Bright and early on the morning of Sunday, August 31, the managers started reinforcements for the menaced sector. Colonel Henry W. Savage, producer of "See Saw," and Will Page, one of the heads of their press bureau in New York, were the commanders of this expeditionary force to save the Boston theatres for the managers' treasuries.

Colonel Savage was the more hopeful for success in this maneuver because he had in his pocket the injunction secured from Judge Lawton in Superior Court on August 12, while the strike was still young, forbidding interference by the Officers or members of Equity with his "See Saw" company at the Tremont Theatre, and prohibiting the members of that company as individuals from breaking their contracts.[8]

Otherwise there was very little attempted by either side on this last Sunday of the strike. The day was utilized by all concerned as a period of recuperation from past efforts and of preparation for last desperate assaults.

* *New York Morning Sun,* August 31, 1919.

Samuel Untermyer, who had volunteered his services without compensation earlier in the strike, sent a letter of advice to Gillmore on this date, concerning the terms on which the strike ought to be settled, and warned the actors' leader that:

"I understand that in your demand for the recognition of your association by the managers you have expressly disclaimed any thought of insisting upon what is known as the 'Closed Shop.'

"Whilst the excess of moderation on your part is praiseworthy from one point of view and ought to attract to your support the sympathy of all classes, I feel that you are wrong. In theory there may be such a thing as the 'open shop,' but in practice there is not.

"Your profession should either be represented through your association for the purpose of collective bargaining against the managers, or you will be left at the mercy of individual bargaining against the managers, who, while arrogating to themselves the right of collective bargaining, have had the impertinence to deny it to you. If they have a decent pretext for that attitude I have never heard it presented. It would be interesting to know what it is.

"If you compromise your controversy on the basis of an 'open shop,' which means that the managers are at liberty to deal individually with such of the actors as do not choose to join your organization, the result will be that in the course of time they will undermine your Association by discriminating against its members until they succeed in disintegrating it. This is far more easily done in your profession than in the ordinary trade union." [9]

With this letter Mr. Untermyer sent his check for $1,000 which he asked to have used for the chorus.

Tyler followed up his success in Chicago by putting over "Tillie" with Patricia Collinge and twenty-one non-union stage hands from Chicago at the Davidson Theatre, Milwaukee; and "Pollyanna" in Washington. Although not a member of the Producing Managers' Association, he was closely identified with Klaw and Erlanger, and was quite as bitter against Equity and the unionization of the theatre as any dyed in the wool member of the Producing Managers' Association. From the beginning of the strike Tyler had declared his ability to present plays in spite of union opposition, and he did succeed in opening three plays in forty-eight hours, a feat accomplished by no other manager.

THE FIGHT SHIFTS TO THE ROAD

By common consent Labor Day was considered at that time to be the formal opening of the theatrical season, and this year, as customary, houses closed for the summer were scheduled to reopen on that day.

Yet from half a dozen cities reports filtered back to New York that premières had either been cancelled by the booking offices or prevented by announcements from actors, stagehands and musicians that they would not permit openings to be held.

The severest fighting was reported from Boston where the managers had concentrated their heaviest artillery in the effort to keep their front intact. Yet here Equity achieved its most signal success, for simultaneous walkouts of actors, musicians and stage hands closed six theatres and not a curtain was rung up on what was normally one of the most profitable days of the year. Stock companies at the Arlington and Copley Square Theatres were not affected.[10]

Philadelphia reported the loss of two theatres, and learned that although the managers were not planning to try to reopen them until the strike was settled, the city was not to be abandoned to its fate, for Equity planned to open a benefit at the Academy beginning September 9.[11]

Providence also felt the force of the strike with three dark theatres.[12]

In Washington, D. C., "Up from Nowhere" was to have been succeeded by "Fifty-Fifty Ltd." at the Shubert-Belasco, but that house remained dark. George C. Tyler's defiant "Pollyanna" at the National, however, was not interfered with, for which limited fifty-fifty Tyler, if not the remainder of the managerial contingent was, no doubt, properly thankful.[13]

St. Louis lost a theatre;[14] and Atlantic City, scene of many tryouts, was likewise reported in the grip of the strike.[15]

Finally in New York, itself, two houses in a class hitherto exempt became involved with disastrous consequences to the productions playing in them. The Gallo English Opera Company had advertised its opening at the Shubert Theatre, claiming an all Equity cast and Equity's consent. At the last minute Equity became convinced that P.M.A. members were interested in the

play, and shut it went. Despite Mr. Gallo's protests, shut it stayed.[16] A gala opening had been planned for "Yankee Doodle in Berlin" a Mack Sennett feature photoplay at the Bronx Opera House. But that house was owned by Cohan and Harris and now a conference between officials of the I.A.T.S.E. and the lessees of the house ended in its abrupt closing.[17]

It was a series of smashing blows the actors had delivered, for each failure to open ranked with the closing of a company already playing. Each represented an ever mounting managerial loss and a rising actor morale.

Simultaneously the actors expanded their producing activities and their list of coöperative ventures became really impressive. The third bill went on at the Lexington Avenue Opera House; some of the first bill went across the East River to the Brooklyn Academy of Music for an indefinite run; an Equity Revue opened its doors at the Second Avenue Theatre (at Houston Street), scheduled for the first four days of the weeks only, because of the needs of the resident Jewish company; and in Chicago the Equity Benefit set up shop at the Auditorium.

The sudden expansion in production on the part of the actors was a portent even more terrifying to the managers than the successful closing of any number of companies. For, although the managers were losing money with every company which shut down, so were the actors. And losing money was a game at which the managers were better equipped for a long siege than were the actors. They could hold on for a long time, at any rate.

But actors' coöperative productions, especially successful ones, were something else and something infinitely unpleasant. If the actors were filling their war chests faster than the managers were emptying theirs, and that was at a very rapid rate indeed, then the matter of comparative losses became a managerial concern only.

It was no longer possible to talk confidently of a short strike of misguided and badly led radicals in whose hands the Temple of Thespis would be a costly but fragile toy. This did not go even in the rooms of the Producing Managers' Association now. For the cold facts were only too apparent that the actors were making money while the managers were losing it; and that in every way, numerically, financially and morally, the Actors'

Equity Association was stronger than at the outbreak of the struggle.

But there was no hint of an impending debacle in the announcements of the day. On the surface the managers were just as calm, assured and united as ever—more so, perhaps, since it was announced that for the first time in more than a year Marc Klaw and A. L. Erlanger were calling each other by their first names again. It was even reported that Erlanger and the Shuberts were also enjoying an entente cordiale after a period of warfare lasting for fifteen years.*

Through the Actors' Fidelity League, the managers also asserted that they were rushing two hundred applications for membership in Fidelity to Chicago where the strike was declared to have created an immediate and imperative demand for them.[18]

A further inducement held out to prospective members of Fidelity was the word that anyone in need of financial assistance because of the strike might get help, secretly and tactfully, from a special committee of three which had just been appointed. This offer was conveyed delicately in the following words:

"At a meeting of the Board of Directors of the Actors' Fidelity League today a fund was created for the relief of those members who have been thrown out of employment as a result of the Equity strike and who might be in need of financial assistance.

"A committee of three was named to receive the application of those players needing assistance, and their cases will be attended to without delay. In the case of those actors or actresses who are too proud to ask for assistance, steps will be taken to alleviate their immediate wants without subjecting them to the humiliation of applying for funds. These disbursements will be made so unobtrusively that no deserving player need feel qualms over accepting temporary assistance from the organization which is battling so zealously to uphold the traditions of the theatre and all it stands for. One member of this committee will always be available to those desiring assistance at the headquarters of the Actors' Fidelity League, 122 W. 43rd St., at any time of the day or night they choose to make the request.

"The Board of Directors also designated Dr. Richard Hoffman, of 1037 Madison Avenue, as its official physician, and Dr. Hoffman will attend all members of the Actors' Fidelity League in need of medical services and without cost to these patients." *

* *Variety Daily Bulletin,* No. 20, September 2, 1919.

On the surface of things, therefore, the strike was just consuming another day. But the currents which were to bring it to an abrupt end before the week had run its course were beginning to swirl and gather strength. Labor Day carried the Great Strike appreciably nearer to its close.

SURFACE SQUABBLING

The legal victories won by the managers on Tuesday of the preceding week were further augmented on Tuesday, September 2, when Justice Hendrick issued similar restraining orders to cover "Those Who Walk in Darkness," "Head Over Heels," "Lightnin'," "Three Wise Fools" and "The Dancer," all dead and beyond the powers of Justice Hendrick's legal pulmotor. There was little need for the actors to picket the dark theatres which had once housed these productions or to stand guard over Cain's Warehouse, in which some of the productions now slept.[19]

There were, it is true, threats that the managers would have these plays running again within a short time, variously estimated at from forty-eight hours to a week, and Edgar Selwyn announced that "The Challenge" would be reopened at the Selwyn Theatre on Friday night, September 5, but these challenges brought little response from Equity, and Shay, speaking of that possibility, only remarked: "We'll take care of that when it comes." * The necessity never arose.

The great pressure of executive work necessitated by the strike had long since driven Gillmore from the offices of the Association to those of Turner, on another floor of the same building.

But he gained little respite there, for the secret of his whereabouts soon became known to many who sought to see him for a thousand and one reasons—all of which were good to those who wanted the interview.

At this time, therefore, Gillmore moved the seat of the war board of the strikers, composed of Shay, Weber, and a few other advisers, to the Headquarters of the I.A.T.S.E. on West 46th Street.

This move was made to afford more privacy to the deliberations of the heads of the strikers, for the Stage Hands' office, though

**New York Times,* September 3, 1919.

a small one, was better equipped to handle the extra demands made on it than were the Equity or Musicians' offices, and it was less well known. But those who had begun to maintain that the stage hands were running away with the strike, and that the control of it had passed out of the actors' hands, pointed to the move as substantiation of their claims.

It had been planned originally to announce to the regular Tuesday Equity meeting at the Lexington the formation of a huge corporation with assets of perhaps one hundred million dollars, which would assume control of all theatrical activities in the country and turn over production activities to the Actors' Equity Association. The plan contemplated the acquisition or construction of theatres in all the principal cities of the country, and the eventual freezing out of all the producing managers who had threatened to shut the doors of their theatres permanently.

But before the scheme became a reality doubts as to the practicability of certain angles began to assail Equity's leaders. The item of casting alone, in view of the ever-present surplus of actors, and the practical impossibility of guaranteeing all members employment for even part of the year; the salary question, and the selection of plays, all seemed insuperable difficulties which promised only internal dissension, and strife which might eventually wreck the Association.

It is true that at this time Equity Benefits were blossoming everywhere and were turning a pretty penny into the strike treasury. But this was under war time conditions. All star casts serving without pay and accepting any kind of billing and dressing rooms while fighting for a cause they believed must win if they were to continue on the stage, was one thing. Acceptance of like conditions over a period of years with the stimulus of the strike removed, was something else again. And so the proposition was turned down.

Perhaps the classic "Bone" of the strike was pulled by Louis Mann at the Fidelity meeting that night at the Biltmore. With a flourish he announced the receipt of "An anonymous check for $1,000 payable to the Actors' Fidelity League." *

And he was astonished by the roar of laughter which swept the hall.

* *New York Morning World,* September 3, 1919.

Chapter XVIII

THE PEACE TERMS ARE DRAWN

During the morning of Wednesday, September 3, the legal representatives of the actors and managers finished the task on which they had been engaged for the past week. Before them on the long, littered table of the room in the Bar Association lay the document which would end the strike. It was the new Basic Agreement and Standard Minimum Contract embodying the terms on which the strike was to be settled. And those terms were in all essentials the points for which Equity had embarked on its struggle: recognition of Equity as the representative of the actor; abandonment of all suits begun by the managers; an eight performance week; a promise that there should be no discrimination against the actors who had gone out on strike; and a satisfactory arbitration clause in the contract.

The document lacked only the signatures of the leaders of the opposing forces to become binding. First it was passed upon and approved by Gillmore, Weber and Shay, for the striking actors, musicians and stage hands, respectively. From there it went to the General Meeting of the Producing Managers' Association which had been called in the offices of Cohan and Harris at three o'clock. But it was generally understood that since the managers' attorneys had been in touch with their clients at all times during the negotiations the managers must have consented to the terms embodied in the contract, and that the meeting would merely ratify the agreement.

The managers' meeting was packed. Every chair was taken, and still they came. At no meeting since the strike had been called had there been such a turnout.

But the expected concurrence did not materialize. At five o'clock the meeting was adjourned until nine-thirty for dinner, and for an attempt to harmonize irreconcilable members who would not admit various concessions granted in the new contract.

The night meeting lasted until after one o'clock in the morning, and when it broke up Lee Shubert informed a reporter of the

New York Morning World: "The two sides are further apart than ever." *

There were several reasons why this should have been so. And in each of them sentiment, previously supposed to be the stumbling block in the path of the actors, had held up this gathering of "hard-headed business men."

In the first place Cohan insisted upon official recognition of his Actors' Fidelity League in the contract by name. And the managers, in the face of their repeated promises of eternal gratitude to Fidelity, were not inclined to turn him down.

Then a faction of the Erlanger group, headed by David Belasco, and commanding an unexpectedly strong bloc of well known producers, declined to accede to terms which constituted complete surrender to the actors.

And finally George C. Tyler, with a record of having opened three plays within forty-eight hours, two of them in the face of the hostile Equity-Labor affiliation in the Middle West, blew into the meeting in an aggressive mood, proclaiming that if the managers would only follow his tactics they would have the strike beaten in a few days.

When the meeting was adjourned finally, the contract was turned over to Colby with recommendations for certain changes in line with the discussions of the afternoon.

The news that an agreement was as far away as it had ever been, in spite of the hopeful rumors that it had been reached, perhaps because of those rumors, was depressing to Broadway and to the leaders of the strikers.

Only one ray of light penetrated the general gloom. Arthur Hopkins in his communique had said: "The Producing Managers do not object to recognition of the Actors' Equity Association." That was less final than: "We will never recognize Equity."

His "Never" had become "Well, hardly ever."

COLBY REWRITES THE BASIC AGREEMENT

When the attorneys for the actors and managers met at the Bar Association at eleven o'clock on the morning of Thursday,

* *New York Morning World,* September 4, 1919.

September 4, Colby handed to Turner and Sheffield the draft of a contract which would be acceptable to the managers.

Upon a close scrutiny of the document Equity found that Colby had practically rewritten the instrument which had previously been accepted by the lawyers for both sides, and by the governing board of the strikers. The rewriting had been done in accordance with the suggestions threshed out at the all-day meeting of the managers.

A casual reading would indicate that no substantial changes had been made, that the managers were prepared to give Equity all the advantages it had sought, and that the changes were merely those of verbiage. But it was not a casual reading to which it was subjected, and in those changes Turner and Sheffield found wordings which seemed designed to nullify certain elements of vital security which Equity had sought in its contract.

Not all of the rewritten clauses had that intent. Some of them were attempts to make an unpleasant medicine more palatable by sugar-coating it; but certain of the clauses concealed dangerous potentialities.

Now as to the conclusions reached by Turner, Sheffield and the governing board of the strikers after deliberation concerning the changes. In a letter to Colby, declining the proposed contract, Turner and Sheffield wrote:

"Your proposed form differs from the draft which counsel on both sides had previously drawn both in form and substance. We will indicate in this letter the important points of difference between these two drafts and comment thereon. However, we do not wish to be regarded as in any way committed to any specific form of expression which we may adopt in this letter with regard to such differences."

Turning then to the proposed agreement and referring to the important differences by the number of the clause as it appeared in the managers' draft, and not by the number of the clause in the original agreement, the Turner-Sheffield letter found that Clause 3 of the managers' proposed draft would absolutely prohibit any action by Equity or its members on behalf of themselves or their friends in the labor movement, during the life of the Basic Agreement.

"The clause which we suggested," the letter continued, "and which is acceptable to us is as follows: 'The actor and the manager agree

that this contract is entered into independently of any other contract between any Equity member and any producer and independently of any other contract or contracts, affiliation or understanding of any character whatever, than the agreement dated September 4, 1919, between the Producing Managers' Association and the Actors' Equity Association.'"

September 4 was given as the date since it was expected at the time of typing the agreement that it would be signed on that date. And entering upon a contract independently of other obligations and affiliations did not mean disregarding them, nor did Equity intend to have that interpretation put upon it.

The next clause, which referred to the reinstatement of Equity members to the rôles they had given up because of the strike, was the "out" upon which George M. Cohan had insisted throughout the sessions the day before.

Here was the protection which the managers had promised to all those who had deserted their fellow actors and had agreed to play the part of strike breakers. They were to be kept in the rôles they had gotten only because loyal Equity members had laid them down, and the strikers, after winning their battle might whistle for their chances.

Concerning this request Equity's letter said briefly: "This clause is acceptable provided it is made to relate merely to productions which have been permanently abandoned."

Cohan's bid for permanent recognition of the Actor's Fidelity League had been attempted through the inclusion of a phrase directly naming Fidelity in the clause guaranteeing an open shop, numbered six. It was wholly unacceptable to Equity and its allies.

Little argument was wasted on its rejection. "This clause is acceptable with the omission of the words 'the Actors' Fidelity League or' which were not in the previous draft," Colby was reminded.

The next clause to which Equity objected, the seventh, laid such limitations upon recruiting for membership that almost any sustained effort upon the part of Equity or its members to obtain replacements might have been construed as "force or coercion or attempted force or coercion."

In the eighth clause of the manager's draft, the managers apparently had offered to guarantee against any discrimination be-

cause of Equity membership. But actually, as Equity's letter pointed out:

"This clause omits the essential provision of clause 7 of the previous draft that any producer shall not employ or offer to employ any person upon the condition that he do not join Equity or that he join any other organization."

Its direct application might be this: an actor under consideration for a part would be told—"Go on over and join the Actors' Fidelity League, and then come back and talk to me"; or if this was declined—"Well, don't join Equity anyway. They can't give you anything that I won't, and if you want this job, stay away from them." If a manager were unscrupulous this might give him power to build up Fidelity as a rival to and at the expense of the Actors' Equity Association.

The clause numbered 14 was also susceptible to construction which would place an unnecessary limitation upon the power of any individual Equity member, and was rejected for that reason.

And finally the time of the proposed Basic Agreement which had been set at December 31, 1921, had been extended to June 1, 1924. With regard to that change the managers were informed:

"We are unable to agree to a contract which shall terminate later than December 31, 1921, or that will terminate on a day other than the last day of a calendar year.

"Concerning the foregoing, we do not wish to be understood as limited to the exact form of expression which we may have used in this letter, which is intended to set out the substance of our views upon these matters. We add, however, that the use of the word 'unacceptable' in this letter means that those whom we represent have taken, with reference to the matter referred to, a position which, as expressed in our letter, is definite and final."

THE MANAGERS EXPLAIN THEIR TERMS

When this letter was conveyed to the managers by their attorneys the producers apparently took it as a definite termination of relations. At any rate Arthur Hopkins, although both sides had agreed to a pledge of secrecy concerning the negotiations, issued a statement conveying the impression that a fair and liberal offer

from the managers embodying the points for which Equity had struck, had been arbitrarily and illogically refused by the actors and concluded by asserting:

"The Producing Managers' Association now plans the reopening of all theatres." *

Not even Hopkins had any idea that the managers would be able to open all their closed theatres, or any considerable number of them, but it was announced that plans had been perfected which would permit "The Challenge" with Holbrook Blinn and a non-union outfit from the bottom up to reopen for the third time at the Selwyn Theatre on Saturday night. "Friendly Enemies" with Louis Mann, and with Jess Dandy in the part relinquished by Sam Bernard, was scheduled for the Manhattan Opera House, on Monday, September 8; while the revamped "Ziegfeld Follies," minus its best features was to follow suit if possible, later in the week.[1]

The Actors' Equity Association, and those who had represented it, were greatly exercised at the statement which Hopkins had issued. For Hopkins, quite aside from his tactics in making his announcement concerning the recent negotiations, had also so presented the facts of those negotiations that Equity seemed in the position of having rejected all the things for which it had gone on strike, and of prolonging the fight now to gain the closed shop it had consistently disclaimed.

To Justus Sheffield fell the task of refuting Hopkins' announcement.

"This statement is a gross misrepresentation of the negotiations," Sheffield declared.

"The proposed contract bears every evidence of having been drawn with full knowledge that it would be rejected, and of having been presented, not in good faith, but for the express purpose of being rejected, in order that the managers might stage a grandstand play to the public in the hope that they might thereby gain some small amount of public sympathy for their position which sympathy has hitherto been so conspicuously lacking.

"The Equity, however, welcomed the opportunity to bring to a definite issue negotiations for a settlement which promised to become interminable.

* *New York Morning Sun*, September 5, 1919.

"The statement that 'the Producing Managers' Association now plans the reopening of all theatres' is interesting, but not important." *

And for the last time in the history of the strike Equity succeeded in obtaining an adjournment of six injunction hearings scheduled for argument before Supreme Court Justice Robert L. Wagner, which were put over to Monday, September 8. They were never argued.

THE DRIVE ON THE SHUBERTS

Since it was to be war, Equity determined it should be war to the knife, and that to the hilt. Early the next morning after the publication of Hopkins' announcement of the failure of negotiations on Friday, September fifth, the last great offensive of the strike was launched.

It followed Equity's general war plan of gradually increasing pressure, which, however, always kept something in reserve for a greater effort, and was launched against the greatest single force which appeared to be blocking peace at that time—the Shubert Theatrical Company.

Once more Equity struck its blow through its allies the stage hands and musicians. Telegrams were sent from the headquarters of the former to one hundred and sixty-nine locals in cities, which were supplemented by eight hundred letters to locals in smaller towns and individual theatres in which Shay addressed his union as follows:

"To the Strike Committees, Officers and Members of all Local Unions of our Alliance, Greetings:

"After making every effort, through local legal representatives and otherwise, to effect a settlement with the Producing Managers' Association in the existing controversy, it is decided that decisive action must now be taken.

"Every indication seems to show that the Shubert Theatrical Company, together with its affiliated concerns, is principally responsible for the unreasonable refusal of the managers to enter into any conference with the Actors' Equity Association. Therefore all theatres and places owned by or in connection with the Shubert concern are

* *Variety Daily Bulletin*, No. 23, September 5, 1919.

declared unfair to our Alliance. All attractions booked by or in connection with the Shubert concern are declared unfair to our Alliance. Every enterprise or undertaking owned or controlled in whole or in part by the Shubert concern is declared unfair to our Alliance, as is also any enterprise which is positively known to be aiding or abetting the Shubert concern in its attack on organized labor. No member of this Alliance shall in any way give service or aid to any of the theatres, attractions or concerns connected with the Shubert concern as above specified, until further notice from this office, under pain of instant expulsion.

"Send us immediately a list of the combination theatres in your jurisdiction, specifying their ownership or control, together with all other information which you believe will be of assistance in this connection. Do not fail to keep us advised of all traveling attractions booked to play your jurisdiction, specifying the ownership and booking and advance booking if possible. Inform us promptly of all action taken under the orders contained herein, and of all developments in connection therewith. Suspend as far as possible all local controversies not connected with this larger issue, and thus conserve all your resources for an immediate success.

"Relying on your prompt and careful response to these instructions, and with best wishes, I remain,

"Fraternally yours,

"CHARLES C. SHAY,

"International President." [2]

Although this order was addressed solely to the stage hands it automatically affected the musicians as well, for according to an agreement concluded at the convention of the musicians in Dayton, Ohio, and later ratified by the stage hands at Ottawa, Canada, a walkout of either organization carried the other along with it. And during the strike this procedure had never varied. The Canadian musicians were not included in the American Federation of Musicians in the same way that the stage hands of the Dominion were a part of the International Alliance of Theatrical Stage Employes, but the relations between the American and Canadian Federation of Musicians were most friendly, and there was little doubt but that the latter would actively support any action taken by their affiliated organization.

That this was an uncommonly heavy blow was indicated when Lee Shubert admitted that reports from house managers scat-

tered throughout the United States and Canada indicated that about one hundred of his theatres had been affected. Shubert attempted to make light of it by asserting that since the strike had already closed many of them, he was thus relieved of the necessity of keeping the idle stage hands upon his pay rolls.[5] But comparatively few of the out of town theatres had been so affected, and, with the exception of Chicago, all those closings had taken place during the past week.

THE P.M.A. SUES FOR PEACE

However the managers may have *announced* they felt with regard to this move, it promptly brought from them the first real tender of peace that Equity had received. The other propositions, manifestoes, and conversations with Fidelity, had all been manufactured as propaganda with an eye to the newspapers rather than to a settlement of the fight. This offer was genuine. It was accepted.

About noon word was conveyed to Gillmore, then in Turner's office, that Augustus Thomas, the playwright, had arrived at the offices of the Association, on the floor below, with an offer from the managers. Thomas, who had served on the committees appointed by the dramatists which had interviewed both the managers and Equity earlier in the fight, had responded to a telegram from John Golden in which the manager had wired: "For God's sake get in this and help us to back-pedal." And Thomas had come.

Gillmore was astonished to learn that the managers had started negotiations anew in view of Hopkins' news releases of the previous afternoon. He was also angry at the duplicity which he felt had been employed in the termination of the negotiations, and in the manner in which the announcement of that termination had been made.

"There is no use in any further meetings," he told Thomas, "unless we have assurance that the managers really intend to make peace, and will agree to the fundamental conditions on which alone Equity can negotiate."

"There is no need for you to worry," Thomas replied. "This is genuine. It is a real termination of hostilities. I have been

asked to act as Chairman of the conference, if you will consent to it." The white flag had been hoisted.

Because of the record of other negotiations which had failed after it was believed that a settlement had been achieved, no word of this offer was given to the Equity general meeting which was held at the Lexington Avenue Opera House that afternoon, nor was the strike order sent to the stage hands rescinded.

THE FINAL TERMS

A tense, excited group gathered in the luxurious library of the St. Regis Hotel, Fifth Avenue and Fifty-Fifth Street, at eight o'clock that night to settle the strike. For a number of reasons practically every member of the delegation representing each faction in the room was eager for, and was determined that the meeting should not be adjourned without, an agreement.

Gillmore was aware that beneath the surface in his organization enthusiasm for the strike was being replaced in certain quarters by a gathering sentiment for peace at least on the basis of what had been offered to Fidelity.

Shay had allowed it to be felt that the stage hands had done all that could be expected of them, and, whether because of the responses from his locals with regard to the country-wide strike against the Shubert enterprises, or for some less obvious reason, he was not in the uncompromising and belligerent mood that had been his twenty-four hours earlier.

The Erlanger group in the Producing Managers' Association had been warned by Levy Mayer, their Chicago attorney who had come on to handle their tangled affairs, two or three days before this time, that they had no chance to win, and that a continuance of the strike would only mean a piling up of already great losses. And so—

The Shuberts, who would be left holding the bag in the case of a withdrawal from the field of the Erlanger forces, were already savoring the bitterness of a nationwide shutdown, and were further disheartened by the rumors that the Erlanger group was getting ready to bolt. Their representatives at the meeting were not there to delay any possible settlement, but to save what they could—themselves if nothing else.

There was one group which was not represented. No one came to the St. Regis as the avowed representative of the Actors' Fidelity League. Members of that organization holding their first closed meeting at the Biltmore were told by Cohan that the meeting was in progress, though Cohan believed that it was being held at the Astor instead of the St. Regis, and that:

"We are not represented at this meeting because I believe the object is to determine where and how we get on and where we get off. I have told them that already." *

To this meeting which was to end the strike Gillmore was accompanied by Francis Wilson, Marie Dressler, Ethel Barrymore and Lillian Russell; and attorneys Turner, Sheffield and Rubin. Labor was represented by Shay and Weber. The managers spoke through Arthur Hopkins, Henry W. Savage, John L. Golden, Sam H. Harris, A. H. Woods, William A. Brady and David Belasco, and of the legal staff Bainbridge Colby, Joseph Auerbach, William Klein and Levy Mayer were present.

Augustus Thomas was in the chair, and Gene Buck of the newly formed Dramatists' Guild was with him. The cast of the drama had assembled.†

When the meeting got down to business about eight o'clock Colby, much to the surprise of everyone in general and to the chagrin of the Equity delegation in particular, launched into a lengthy and spirited lecture on the sacredness of contracts—anything but a harmonious keynote to strike at a meeting called under the conditions and for the purposes of this one. The hard feelings which might have been engendered by this maneuver were allayed by the tactful response of Lillian Russell, and the meeting proceeded to the consideration of a basic agreement.

There was little argument about the terms themselves. It was known in advance what Equity considered requisite for peace, and Thomas had ascertained that the managers were willing to meet those demands before the conference was called. There was some argument advanced for specific recognition of Fidelity, but on this point Equity was adamant, and Labor tactics supported the actors in their refusal to recognize the company union.

In two respects, though, Equity had modified its previous posi-

* *New York Morning Sun*, September 6, 1919.
† *New York Morning Telegraph*, September 7, 1919.

tion as outlined by the Sheffield-Turner letter of the day before. Both of these modifications were in directions desired by the managers, and hitherto rejected by the actors. In each case the change had been made for tactical reasons.

In the first instance Equity had stood out for a return of all striking actors to the places they had held at the time of their walkout. The managers, on the other hand, had wished to substitute for that provision another reading: ". . . except in those cases or instances in which their positions are no longer open, by reason of contracts entered into since said strike, or by reason of the abandonment of the production in question."

It was within Equity's power to force the managers to agree to take back all the Equity actors, but further consideration of the question revealed the fact that most of the strike breakers, Fidelity members and otherwise, had cemented themselves to their jobs by demanding run-of-the-play contracts, in return for going so directly counter to the sentiment of their fellows. It would have been possible for these strike breakers to make their contracts stick in court, if they had been thrown out by the replacement of striking actors, and many managers, rather than face the burden of paying for two sets of actors, would have preferred to crawl out from under by abandoning the productions altogether.

Obviously this would not have been to Equity's benefit, and so it was prepared to agree that those actors who could not return to their rôles were to be placed in other productions, or were to be reimbursed by a Board of Settlement which should determine what was equable.

In the other instance the managers had asked for a contract ending June 1, 1924, while Equity had held out for an agreement terminating December 31, 1921, or in any event one which ended on the last day of some calendar year.

The longer term was now accepted because the Equity leaders realized that the reorganization of the theatre which was sure to follow this victory probably could not be accomplished in a period of a little more than two years, and that the actors would need more time before they were called upon to take up arms if, indeed, that necessity should ever become apparent.

In general December 31, which is ordinarily the height of the

theatrical season, would seem the best time to negotiate terms, and in the midst of prosperity an argument would, presumably, find the managers more amenable to persuasion.

But those who were directing Equity's policies also had an eye to the prosperity of the theatre as a whole. They were aware that the drafting of a new basic agreement is usually preceded by negotiations extending over several months, and that, if there is any uncertainty as to the outcome of those parleys, there is a depression in the theatre which is reflected by a drop in production activities. The actors, too, are busier making hay at that time of year than at any other time, and a walkout would mean a greater sacrifice on their part. June 1, however, is the end of the theatrical season, and the majority of actors have accumulated whatever money they can count on getting. The prospect then is of resting over the summer, or of working for summer wages, which are usually lower than those paid in the regular season. Financially, therefore, the actors would be better able to stand unemployment at the end of the season, than at its height; and their plans, and those of the producers, would be less liable to disarrangement. For those reasons Equity came to the council table that night prepared to accede to the managers' request that the new contract be for five years to be reckoned from the first day of June, 1919.

With Colby's diatribe disposed of; Fidelity eliminated; reëmployment and the length of the new contract determined; recognition of Equity, an eight performance week, and arbitration conceded before it had convened, the meeting found itself in agreement by eleven o'clock.

Then to the consternation of everyone present it was disclosed that the managers' delegation had been empowered to negotiate, but not to sign. Bitter experience had proved that to adjourn now without a formal ratification of the treaty might result in wasted labor for, subject to other influences, and removed from the aura of good feeling so conspicuous a part of the meeting, the managers might decide later to hold out for better terms, or to insist on the inclusion of some impossible clause, such, for instance, as the formal recognition of Fidelity, which would have wrecked the negotiations entirely. This very thing had happened more than once during the strike and the negotiations which had

led up to it. But all concerned were determined that this time there should be no slip—that the meeting was not to end without agreement.

There ensued then, a frenzied telephoning and telegraphing to convene at the Cohan and Harris offices a sufficient number of managers to constitute a quorum of the Producing Managers' Association, and the meeting stood adjourned to await the action of that meeting.

"THE STRIKE IS ENDED"

At half past one in the morning of Saturday, September 6, the delegation of managers returned with power to bind the Producing Managers' Association to the peace treaty.

There was more discussion of the precise wording of certain sections of the Basic Agreement, but no changes of any sort whatever. At three o'clock Augustus Thomas, flanked by Frank Gillmore and Arthur Hopkins, stepped into the hotel lobby where a guard of weary reporters still kept vigil, and quietly announced: "Gentlemen, we have reached an agreement. The strike is ended."

Immediately Gillmore sent telegrams to the striking actors in Chicago and Boston, and to Los Angeles, advising those in command at these vital centers that the victory had been won, and authorizing the return of the actors to work pending a final settlement, which was to be effected during the day.[4]

The managers were no slower in their efforts to start the wheels turning again. Five plays, "Lightnin'" at the Gaiety; "Chu Chin Chow" at the Century; "The Challenge" at the Selwyn; "A Voice in the Dark" at the Republic and "The Scandals of 1919" at the Liberty Theatres were announced as ready to resume business at the old stand that night. There was a concerted rush to the theatrical advertising columns which was led by the Shuberts, who took more space that day than they had ever taken for a week day in the history of their organization.*

The Labor forces were also called off immediately. S. B. Newman, vice president of the I.A.T.S.E., cancelled the 169 telegrams sent to locals ordering a nationwide shutdown in all Shubert houses and on all Shubert shows; and 800 more letters

* *New York Dramatic Mirror,* September 18, 1919.

went to all the small towns and individual theatres to notify the locals in them that the Shuberts were once more restored to good standing.[5]

Equity's members were slow in realizing the extent of the victory which had been won. In order not to further lacerate feelings which had been made raw by the month of bitter warfare, their leaders refrained from gloating in print, and even spoke deprecatingly of "victory." Nevertheless, there was a great and enthusiastic gathering in front of strike headquarters, and Broadway and its tributary streets in the theatrical district, reflected the general satisfaction which attended the settlement.

But though, on the surface, the strike was a thing of the past, a formal settlement was yet to be reached. On the familiar battle ground at the Bar Association the joint committees and their legal aides were engaged in drafting the actual Basic Agreement and Contract, whose signing alone would actually end the strike.

In spite of the hour at which the meeting had broken up that morning all hands were on deck and at work at ten o'clock in the morning. And all that day they stayed at it, keen and desperate fighting for the wording of a clause or a phrase which might change the construction of a whole section. It was bitter, relentless wrangling which estranged anew the foes who had become friends earlier in the day.

Particularly, bitterness hinged on the absolute refusal of Equity to permit mention of the Actors' Fidelity League in the open shop clause of the Basic Agreement. Time and again some one of the managers' delegation would return to the charge, and in one flare-up Arthur Hopkins threatened to abandon the negotiations unless Frank Gillmore at least wrote a letter acknowledging that Fidelity was included in the Equity understanding of that clause. But on that point Gillmore was not to be budged.

For an instant the whole agreement hung in the balance. Then Sheffield declared: "I'll see that such a letter is written." And the negotiations were resumed.

It was during this meeting particularly that Thomas rendered his best services. Innumerable changes proposed by the managers, or attempted to be reopened for argument were settled by him with the reminder:

"That has been agreed to. You cannot bring it up again."

Mayer, the Chicago attorney who had been injected into the proceedings by the Erlanger interests late in the strike, was also of great value at this juncture. More than any of the remainder of the managers' attorneys, he was conversant with Labor and strikes, and was thoroughly acquainted with Labor's requirements for their settlement. Where the viewpoint of the New York attorneys was legalistic, his was eminently practical, and was willing to consider the temper and traditions of his opponents. Originally concerned particularly with the arbitration clause, Mayer's influence made appreciably easier the settlement in general.

At last the rough draft of the Basic Agreement and Contract was completed, and at seven o'clock in the evening it was turned over to the stenographers to be typed. An adjournment of an hour was taken for dinner.

A CELEBRATION NEARLY WRECKS THE PEACE

But even that short breathing space almost upset the negotiations. As Arthur Hopkins was returning to the Bar Association from dinner he passed Strike Headquarters, and the red fire, cheers, and jubilation there, perceptible even to the most casual and disinterested beholder, were too much for him. He informed Gillmore that unless the celebration was curbed he was willing to throw up the negotiations on the spot. Gillmore, himself, went around the corner and asked the celebrators to wait until the last gun had been fired, before beginning to shout victory. The celebration subsided, and the conference went on.

The lawyers were worn out by their almost continuous session since early the night before. As they sat back waiting for the stenographers to complete their labors, Rubin suddenly leaned across the table towards William Klein of counsel for the Shuberts.

"Come on," said Rubin. "Let's draft the Chorus Contract now."

Klein threw up his hands in horror at the idea, but Rubin was not to be denied, and while the typewriters clicked downstairs, he rushed through concession after concession, every one of which would have been contested to the bitter end by a rested and re-

freshed William Klein. It was a heroic piece of work on Rubin's part by which the chorus was removed as a factor of contention for some time afterward.

Half an hour before midnight the Basic Argeement came up for final reading and signing. A final hitch developed at this, the last quarter of the eleventh hour, which threatened to wreck the negotiations completely. When Hopkins read his copy of the Basic Agreement he discovered that no mention of the Actors' Fidelity League was contained in the document, and he peremptorily demanded its inclusion. But that was one point on which Equity stood immovable. Even at the risk of seeing the agreement, so close to a successful conclusion, go down to ruin, the Equity negotiators could not contemplate the formal recognition of the Actors' Fidelity League.

"Well, anyway," Hopkins persisted, "Mr. Gillmore promised to write a letter acknowledging that it was Equity's understanding that Clause 5 of the Basic Agreement referred to the Actors' Fidelity League."

"I did not promise to write any such letter," Gillmore denied. "What any of the Equity lawyers may have promised for me has nothing to do with it. I cannot write such a letter, and I will not."

"Very well, then," retorted Hopkins, rising from the table. "That's the end of things. I was promised a letter covering Fidelity, and if I don't get it, there isn't going to be any contract either."

"Wait a minute," protested Sheffield. "I'll write that letter. I'm one of Equity's attorneys, and I can answer for the Association."

"If you'll take that," Gillmore declared, "all right. I can't stop him from writing a letter, but I won't write it myself."

Midnight was but a few minutes away when this colloquy took place. In that brief few minutes Sunday would appear, and the signing of the contracts could not have taken place, as contracts signed on a Sunday are not legally enforcible. In the present temper of the managers a delay over the week-end might have been fatal to the peace treaty achieved with so much labor in the last thirty hours. Already employes of the Bar Association were beginning to dim the lights as a warning that the Library would

have to be closed. For a moment Hopkins stood undecided. Then he turned to Sheffield.

"You will be responsible for such a letter?" he inquired.

"I promise," replied the Equity attorney, and Hopkins turned, seized the pen and savagely scrawled his name on the first copy.

As the remaining names went down in order the lights were dimmed again as a final warning that the conference could not longer continue to hold the room.

Outside the Bar Association building Grant Stewart and Echlin Gayer sat in an automobile with copies of telegrams cancelling the lifting of the strike which were to go out if midnight came before the documents were signed. Anxiously they watched the hands of their watches crawl toward midnight. Twice they had seen the warning signals of impending closing, and no word of signing had reached them. With only a minute to spare Frank Gillmore came out of the door with the news that the managers had signed the contract. The strike was won.

Chapter XIX

CHICAGO HEARS OF THE STRIKE

Chicago is second only to New York as a theatrical center. Both in the number of legitimate theatres, and in the value of the productions which occupy them it is a place of great strategic importance. A swift, sharp and severe blow would have been almost as paralyzing as in New York itself. But for various reasons this was not delivered. The strike in Chicago was a piecemeal affair; the actors' strokes were ragged and, until late in the fray, uncoördinated, and much of their force was lost. Nor in Chicago was public sympathy with the actors to anything like the extent that it was in either New York or Boston.

Four days before the strike was called in New York, Edwin Mordant of Equity's Council arrived from New York to take command of the Chicago sector, and called a meeting of players for that night at the Hotel Morrison.

There were then playing in the Loop, Chicago's theatrical and bright light district, nine legitimate productions: "A Prince There Was" (Cohan and Harris), Cohan's Grand Opera House; "The Passing Show of 1919" (Shuberts) Palace; "Cappy Ricks" (Oliver Morosco), Cort; "Sunshine" (Johnstone and Shaw), Studebaker; "Honeymoon Town" (J. L. Blanchard), La Salle; "Scandal" (Walter Hast), Garrick; "Angel Face" (George W. Lederer), Colonial; "Down Limerick Way" (Augustus Pitou), Olympic; and "Up in Mabel's Room" (A. H. Woods), Woods Theatre. In all, there were about three hundred and sixty players, and of them, despite the fact that the meeting was called at 11 : 30 in the evening, because Chicago is a Sunday town, two hundred and fifty responded.

They were addressed by Mordant, Grant Mitchell, also of Equity's Council; James William Fitzpatrick, President of the Associated Actors and Artistes of America, Levi Fuller, Equity attorney in Chicago; and John Fitzpatrick, President of the Chicago Federation of Labor. Although there was a great deal of

enthusiasm and fighting talk indulged in, the meeting had taken no action when it adjourned after two o'clock.[1]

The strike burst in Broadway's face on Thursday, August 7, but the Chicago actors, though restive, made no move. They were dependent upon the daily papers for news of affairs in New York, for Mordant had established no headquarters, and though he had called upon E. N. Nockels, Secretary of the Chicago Federation of Labor, he had not made contact with the stage hands, musicians and allied labor organizations, or provided for dissemination of Equity's side of what was happening. The first news and for a while the only news that Chicago had of the strike, was through the wire reports and statements issued by the managers' representatives, news not calculated to further Equity's cause.

William Courtenay in those first days did organize a poll by which the actors and actresses could register their willingness or unwillingness to strike if a strike were called, and it was possible to assure the Council that it could depend on the actors of Chicago in an emergency.[2]

An advertisement of the damage suit instituted by the Shuberts on Monday, August 11, and the opinion of Nathan Burkan on which it was based, were published in the Chicago newspapers the next day. Riding out of the east with them, came Francis Wilson, to direct in person the first blow of the campaign.

His departure had been noted by the managers in New York, his destination was guessed, and they embarked immediately upon a long distance telephone campaign to secure injunctions from Chicago courts in advance of his coming. In this they were not successful, but the local managers were warned that he was headed in their direction, and were alert to parry this first blow.

THE MANAGERS PREPARE TO MEET IT

Various managers met the situation in various ways. At the Le Salle Theatre, although the production was made by an independent manager and might have been exempted in spite of the fact that it was playing in a house belonging to a member of the Producing Managers' Association, the orchestra was rushed into its pit at six-thirty, and the curtain went up an hour and a

quarter later, much to the surprise of the actors, and also of the audience, most of which arrived about the middle of the play.*

J. J. Rosenthal, manager of the Woods Theatre, indulged in even more Machiavellian tactics. Upon being informed that "Up in Mabel's Room" in which Walter Jones, Hazel Dawn, and others were appearing, would be among the first to engage the attention of Wilson, he dashed over to the hotel at which a number of the company were staying, and dropped into the room of his principal comedian.

"Come on, Walter," he suggested, "let's go to the circus. And I've got a little surprise party all set for after the circus."

Apparently as an afterthought, other members of the company were included in the party until probably a majority were the guests of the generous management. Following the circus all were invited to dinner, and were shepherded thence to the theatre at the last moment possible for makeup.

Once his cargo of prisoner-guests was safe, Rosenthal locked the stage doors, set guards at all entrances with strict orders not to permit anyone to see an actor, and hurried into court, there securing subpœnas calling upon all the members of the production to appear the next morning before Judge Charles M. Walker in injunction proceedings to prevent them from joining an actors' strike in Chicago, of which the surprised actors and actresses of "Up in Mabel's Room" were completely ignorant at the time the summonses were handed to them in the middle of their evening's work.†

Nevertheless, despite this managerial activity, two plays were closed. After a conference in the afternoon with Wilson and Mordant, William Courtenay and Tom Wise, co-stars in "Cappy Ricks," at the Cort, and Grant Mitchell, star of "A Prince There Was," at Cohan's Grand Opera House, simultaneously informed their managers, about 7 o'clock, that there would be no performance that night. Richard Carle, at the Studebaker, had also been scheduled for closing, but the star appealed personally to Wilson, and an examination of his contract disclosed that he was an independent manager. For the time being, at any rate, it was decided to let "Sunshine" continue to scintillate. For much the

* *New York Morning World,* August 13, 1919.
† *New York Morning Telegraph,* August 16, 1919.

same reasons "Scandal" at the Garrick, "Angel Face" at the Colonial, and "Down Limerick Way" at the Olympic were not disturbed at this time.[3]

But in order to acquaint all the players with the situation Wilson called a meeting which came to order shortly before midnight at the Illinois Athletic Club. Among those who attended were most of the prominent players then in Chicago. The actors were notified that wires from the managers in New York had been received, warning the recipients that they would be held personally responsible for any financial damages resulting from a strike; but all present, despite the warning, signed a pledge that they would obey the rulings of the Equity Council in the emergency.

The Woods action against the "Up in Mabel's Room" company came before Judge Walker in Circuit Court the next afternoon, Wednesday, August 13, and was referred by Judge Walker to Master-in-Chancery Sigmund Zeisler for hearing.

EQUITY'S HANDS ARE TIED

It was at this point that Fuller stunned and amazed all the Equity members present for, although Judge Walker declined to grant a temporary injunction until the conclusion of the hearings before the Master-in-Chancery, Fuller proceeded to impose upon himself and those he represented what was virtually an injunction covering all those houses not then affected by the strike.

At the suggestion of the astute Levy Mayer and Adolph Marks, who represented the managers involved, Fuller agreed to accept the decision in the "Up in Mabel's Room" case as applicable to all Chicago theatres, and further assented to the request that pending the handing down of that decision, the status quo would be maintained.[4]

That is, Equity would not strike in any theatre unless Master-in-Chancery Zeisler and Judge Walker concurred in finding that it would be justified in striking in this one house. For the present value of the strike in two houses, Fuller mortgaged the prospect of the whole situation in Chicago. The hearing before Zeisler was put over until the following Friday morning, and the walkout

at the Woods Theatre which had been on the program for that afternoon evaporated into thin air.

The attitude of some of the Chicago managers was manifest in the declaration of U. G. (Sport) Herman, manager of the Cort Theatre, in his announcement of intention to sue Courtenay and Wise for damages following the line laid down by the Shuberts in New York.

"Should the strike be called off," Herman said, "I will be compelled to let the original cast play because of my contract with Mr. Morosco, but if I had my way, William Courtenay would never set foot in my theatre again. The woods are full of actors," he added bitterly, "and I am positive that I could lay my hand on a $75 actor who would suit me." *

He also telegraphed to Morosco in New York for permission to rehearse another company in "Cappy Ricks," and suggested keeping the house closed until the new company was ready to come into it.*

Just before going to court on Friday, August 15, Fuller wired to Gillmore in New York that suits to protect productions about to open in Chicago were ready to be instituted, and suggested that members of the "Three Wise Fools," a John Golden production which was about to leave New York for Chicago, should walk out before arriving, thus removing them from the jurisdiction of the Chicago courts. The legalistic trend of Fuller's mind, which was in evidence in all his actions, was illustrated by his suggestion:

"Think it best to await decision in Woods case before taking action in 'Three Wise Fools' or other new shows. Injunction suits being argued on questions of law. Case likely will go over until Monday. Need immediate instructions." †

Then Fuller went into court and requested that the petitions of the managers' counsel be made to conform so that a single answer could be filed to them. The natural concomitant to that was an adjournment over the week-end for the preparation of the answer, during which Fuller engaged that there should not be any further walkout.[5]

During the same day the managers, alive to the possibilities of

* *Chicago American*, August 14, 1919.

† *Grant Mitchell declares that he should share the responsibility for Fuller's actions, but the record does not appear to bear out that contention.*

intervention on the part of the stage hands, concluded an agreement with them in settlement of the quarrel which had been running for some time. This settlement with Local No. 2 gave the stage hands twelve to fifteen cents an hour raise in pay, and they professed to be satisfied with the result.[6] The managers were, at any rate, because they believed that by this action they had removed the stage hands as a source of trouble, and felt that an appeal from Equity would receive little consideration from them.

Meanwhile Equity's labor allies were becoming decidedly restive under these tactics which they, with their greater experience in strikes, recognized as ruinous. Accordingly that night, Nockels went to Mordant and seriously counseled him to order an immediate strike at the Woods Theatre and to argue the legality of it later.

Mordant was convinced of the expediency of the move, and gave the order, which was received with every evidence of satisfaction and obeyed by the cast.

An alarmed management hurried at once to Fuller, and the latter proceeded at once to remind the actors, Mordant and Nockels, of his agreement with the Master-in-Chancery which, he said, was tantamount to a court order, that there would be no change in any of the theatres until the decision was handed down on this case.

Upon this representation Fuller, with the consent of Mordant, countermanded the strike order, and forthwith Rosenthal departed from Mordant's hotel for the theatre where the audience had been held in its seats by the announcement that a delay had occurred but that the performance would positively be given.

Once more Nockels, learning what had happened, persuaded Mordant of the necessity of pulling the Woods Theatre that night, and the two proceeded to the theatre to do it together.

There they found the cast arguing with Rosenthal as to the correctness of his assurance that the strike had been called off, and instructed the actors not to go on.

But in the end Fuller's warnings as to what would happen if the gentleman's agreement he had entered into in his official capacity was disregarded, plus the plea of the management that the audience had been promised this performance, led the actors

to consent to go back to work this once, but with the understanding that there would be no matinée the next day. By this time it was after nine o'clock, but the audience was still seated when the curtain went up.[7]

A similar order to strike had been delivered by Mordant at Nockels' request to Willie and Eugene Howard starring in "The Passing Show" at the Palace Theatre, converted from vaudeville to revue for the summer. Although they declared themselves to be heart and soul with Equity, they felt that the injunction covering them, which was to be tried on Monday also, could not be disobeyed, and they refused to go out as ordered.[8]

BERTON CHURCHILL TAKES COMMAND

Both Fuller and Nockels appealed to Gillmore the next morning, each asking to be sustained in the position he had taken, the labor leader insisting that it would be impossible to continue in the face of the tactics the legal representative was employing. Gillmore's response was the announcement that Berton Churchill was leaving on the Twentieth Century that afternoon to take complete control of the situation.

Churchill was considered peculiarly available for the Chicago assignment for, before becoming an actor, he had been president of Press Feeders' Union No. 23, of New York City. Inasmuch as the success of the strike in Chicago must depend so greatly upon close coöperation with organized labor, it was important that Equity's commander there should be able to speak Labor's language, and to know its habits of thought. Churchill had been in charge of Strike Headquarters at New York.

As Equity's new leader was hurrying up the Hudson River the managers hastened once more into Judge Walker's court room demanding an order binding the Equity players to observe the agreement into which Fuller had entered.

This order was granted immediately by Judge Walker, while, at the same time, he advanced the hearing of Master-in-Chancery Zeisler from Monday to that very morning.[9]

The actors did perform their parts that afternoon, but four minutes before curtain time that night Nockels walked into the Woods Theatre and handed Walter Jones a telegram from Gillmore in which the actor was ordered:

"Place yourself under the direction of Nockels immediately."

"I say strike—and strike quick," was Nockels' terse order.

The members of the company, in grease paint and costume, gathered about Jones and proceeded to ballot on the strike order. It was the matter of a moment only, and then each individually informed the house manager, who had been summoned to hear their decision, that the order would be obeyed. The cast of "Up in Mabel's Room" had defied the injunction.*

The audience was informed that the actors were out on strike and that there would be no performance, but its grief was somewhat assuaged by the further information that seats purchased for "Up in Mabel's Room" that night would be honored at the Palace Theatre if the patrons cared to see Eugene and Willie Howard in "The Passing Show of 1919." [10]

Churchill arrived on Sunday afternoon, and went from his train direct to a mass meeting which had been called by Mordant and Nockels. After whipping up enthusiasm with a report on the status of affairs in New York, the new Equity chief turned to the organization of his forces.

The labor element absolutely refused to consider working further with Fuller, and Nockels urged the appointment of Daniel Cruise, an attorney with a great deal of experience in labor controversies, as Equity's representative in the hearing scheduled by the Master-in-Chancery for the following morning.

But Cruise was in Cleveland. When, in deference to the expressed desire of Nockels and others, that Cruise should bear the brunt of the legal contest, Churchill went into court the next morning, which was Monday, August 18, and asked for an adjournment until Cruise could return and familiarize himself with the details of the case, he was met with a peremptory refusal.

In this crisis Fuller, who had been asked to withdraw, and who had surrendered all the records of the case, volunteered to continue, without compensation, until Cruise returned, but Nockels would not consider his further appearance in the case, and his offer was declined.

The actors elected, then, to proceed without counsel; and, deprived of expert advice, they fared badly under the questioning of Levy Mayer. Upon the adjournment of the court at noon, therefore, Churchill insisted that the actors be represented by

* *New York Daily Illustrated News*, August 18, 1919.

counsel whether Cruise was available or not. Nockels thereupon suggested the name of Clarence Darrow.

Darrow at first was extremely unwilling to participate, but finally agreed to listen in, in an unofficial capacity. This was accepted by the actors, but was rejected by Mayer for the managers, and Darrow finally consented to act as the Equity representative if the hearing could be postponed until Wednesday morning. To this Mayer agreed provided the actors would promise no further action in the meantime. Churchill consented to this, stipulating, however, that if orders came from New York to go out they would have to be obeyed. And there the matter was allowed to rest.[11]

STRIKE HEADQUARTERS ESTABLISHED

In the interval between hearings Strike Headquarters were established in the Masonic Temple, and a War Council was formed composed of a representative of each of the union groups involved, or likely to become involved. This Council met daily, and became the general board of strategy of the strikers.

The regular fortnightly meeting of the Chicago Federation of Labor had also given the actors its unqualified approval, and individual unions not connected with the stage voted their support.[12]

Bright and early on the morning of Tuesday, August 19, Mayer and Marks turned up in Circuit Court before Judge Mangan, and secured the issuance of an order summoning the strikers of "Up in Mabel's Room" to appear on August 26 to show cause why they should not be judged in contempt of court for their walkout on Saturday night in the face of Judge Walker's restraining order.[13]

During the day Churchill became convinced that when the hearing before the Master-in-Chancery was resumed the next day, an injunction would be issued which would leave the actors utterly powerless to close any more theatres. Yet by the terms of the agreement with the managers' counsel during the period required for Darrow to get up in the case no more houses could be affected —unless, and here was the saving stipulation—orders for a general walkout were received from New York.

Accordingly Churchill wired to Gillmore: "A general order to close greatly desired with discretionary power."

This was immediately granted by Gillmore. The Chicago office was likewise advised that the "Three Wise Fools" company was leaving New York that afternoon, and the suggestion was passed on that it be met on its arrival in Chicago.

As soon as Churchill had this order in his pocket he arranged with the stage hands and musicians that Tuesday night was to be the last performance to be given in any legitimate Chicago theatre controlled by any member of the P.M.A., under any circumstances.

This arrangement would be in consonance with the agreement between Darrow and the managers' Counsel, inasmuch as it did not go into effect until after the opening of court on Wednesday morning at which time Darrow would step into the breach, but it would antedate any injunction or restraining order which might emanate from the court during the day.[14]

This same Tuesday night Churchill and Nockels went around to the Colonial Theatre to establish the position of George W. Lederer, producer of "Angel Face." Lederer stoutly asserted that he was an independent manager, and offered to make an affidavit to that effect. As drafted at that time it read:

"I hereby agree to give the Equity members of the 'Angel Face' company the contracts which they now hold, but to be signed by me personally. I am not a member of the Producing Managers' Association.

"George W. Lederer."

Upon that assurance the performance was allowed to proceed.

But at this exceedingly inopportune time Harry B. Powers, manager of the theatre, and Chicago representative of A. L. Erlanger, arrived on the scene, and demanded to know what was going on. Upon being informed he rushed to the nearest telegraph office and before the conclusion of the performance came back with a wire from Erlanger, in which the New York manager had completely sunk Lederer by replying to Powers' query:

"Will not travel under false colors. 'Angel Face' people under contract to you and myself, not Lederer. If actors in 'Angel Face' want to break their contracts, they must abide by the consequences."

Powers then called the company together upon the stage, read Erlanger's message to them, and added:

"You are well aware that there are court proceedings pending enjoining you from striking or interfering in any manner with this production pending a decision of the judge. Violation of your contracts and injunction means contempt of court, which means jail, or fines, or both. You will also be subjected to action on the part of the Metropolis Theatre Company, which controls this theatre, and to Mr. Erlanger and myself for damages."

In the face of these threats only two members, Ada Meade and Ann Warrington, had the courage to announce their intention of going on strike, and were notified in return that they would not be allowed to rejoin the cast, whether there was a strike or not, as their places would be taken by understudies.*

Cruise had returned from Cleveland to assume his place at the head of the Equity counsel table, with Darrow as associate counsel, when the adjourned hearings were resumed by the Master-in-Chancery, the next morning, Wednesday, August 20. Once more Mayer and Marks represented the managers.

Mayer elected to call Hazel Dawn to the stand to explain the reason for her walkout, and attempted in vain to cause her to say that she had responded to an order from the Actors' Equity Association. She did say, however, that she had no personal animus against A. H. Woods, and that the sole point at issue was recognition of the Actors' Equity Association, of which she was a member.

"Don't you think you are taking upon yourself a considerable task when you attempt to tell us what's on the mind of twenty-four managers?" Mr. Mayer queried.

Miss Dawn leaned forward in her chair. "No more of a task than you're attempting, Mr. Mayer," she replied. "I merely repeat what they say. You are trying to say what's in the minds of thousands of actors. It's 50-50." †

As had been foreseen the Master-in-Chancery continued the injunction, and in its continuance severely criticized the Chicago Federation of Labor for the action of Nockels in closing "Up in Mabel's Room." This Zeisler characterized as nothing less than anarchistic. "Go back to work," he told the players. "Until you do, you have no standing before the law."

Nevertheless Churchill's arrangement with the Federation, by

* *Variety Daily Bulletin*, No. 8, August 18, 1919.
† *Ibid.*, No. 12, August 22, 1919.

which the Tuesday night performances were to be the last given in the houses belonging to members of the Producing Managers' Association, went into effect that afternoon and every legitimate theatre in the Loop was slammed shut with a bang which made its cash box rattle.

"Angel Face" at the Colonial; "Scandal" at the Garrick; "Honeymoon Town" at the La Salle; "Take It From Me" at the Studebaker; "Down Limerick Way" at the Olympic; and "The Passing Show of 1919" at the Palace, were all closed by a walk-out of actors or stage hands and musicians, and joined "A Prince There Was" at Cohan's Grand Opera House; "Cappy Ricks" at the Cort; and "Up in Mabel's Room" at the Woods, on the theatrical trash pile. That Wednesday afternoon not one of Chicago's legitimate houses drew a breath of patronage.

During the afternoon Fiske O'Hara staged a desperate drive to be allowed to reopen and to finish his engagement at the Olympic, which was scheduled to run the rest of the week. By appeals to Churchill and Gillmore, upon displaying credentials showing that "Down Limerick Way" was under the sole management of Augustus Pitou, who was not a member or connected in any underground way with the Producing Managers' Association, "Down Limerick Way" was plucked from the withering pile of closed shows. That night it was the one tiny gleam of theatrical entertainment flickering in the Loop. More than $10,000 in all was refunded by the managers on this one afternoon.

At the height of this excitement "Three Wise Fools" pulled in. Its coming had not been forgotten by the Chicago actors, and a large and enthusiastic delegation met the company at the railroad station. Before leaving New York the company had made an arrangement with the management that it would abide by whatever situation was prevailing in Chicago at the time of its arrival. The company on the whole was frankly delighted to find the strike in progress, and was so willing to obey orders from Equity Headquarters that its coming considerably stiffened the morale of the strikers.

HAST ALMOST GETS BY WITH "SCANDAL"

The success of O'Hara in obtaining exemption for "Down Limerick Way," moved Walter Hast to take similar measures

looking to the reopening of "Scandal." The next day, Thursday, August 21, he started a campaign both in New York and Chicago.

To Gillmore he represented that although the Shuberts were to have had fifty per cent of the production, they had never paid a penny, and owned no part of it. He assured Equity that all the members of his company could have Equity contracts. He escorted several new members into the Equity offices, and in general he succeeded in persuading those in charge of the situation in New York that he was an independent. But Churchill stood fast. Hast was not to be allowed to reopen.

Still confident of Hast's good faith Gillmore telegraphed:

"Please be kind enough to explain just why Walter Hast was closed—has stood with us in fight with Producing Managers' Association—has jeopardized his rights with them—we fear all those inclined to be with us will be forced to join the other side. Also have had interview with Guttzeit, owner of 'Take It From Me.' He is an independent producer an outsider in fact and I am confident friendly. [This production had followed "Sunshine" at the Studebaker Theatre.] My suggestion is that you allow these two shows to open if the labor leaders are willing, but I will not go over your head. Whatever you consider best in the situation be sure I will back you up."

Still later in the day, after a further conference Gillmore added by wire:

"Walter Hast informs me you have spoken to him over long distance and that you stated his show is all right if we say so. We hereby give that show our O.K., but will not override any orders that you have given or desire to give."

To this Churchill replied:

"I have not spoken to Mr. Hast over long distance nor have I communicated with him in any way. Will not give his show permission to open. That must come as an order from you to me direct." *

Hast was a persistent person, and he had a good deal at stake. He drafted an affidavit and presented it to the Strike Leaders in New York. These in turn forwarded it to Joseph F. Winkler, head of the Musicians' Union; Richard Green, a vice president of the I.A.T.S.E.; Churchill and Nockels, explaining:

* From telegrams which passed between Churchill and Gillmore.

"We have received the following affidavit:

" 'The theatrical production under my management of the play called "Scandal" now playing at the Garrick Theatre in Chicago, Illinois, is owned, controlled and run by myself. No theatrical manager has any financial interest in my play whatsoever. I am not a member of the Producing Managers' Association nor affiliated or controlled in any way by any manager who is a member of that association, and furthermore that deponent is entirely in sympathy with the aims and present attitude of the Actors' Equity Association, and deponent agrees not to join the Producing Managers' Association; deponent further says that each and every member of his company is engaged by the deponent subject to the rules and regulations of the "U.M.P.A.-A.E.A." standard (two weeks' notice clause) contract and all matters for arbitration under their engagements are to be decided by the Actors' Equity Association to which I hereby bind myself, and deponent will immediately upon his arrival in Chicago next Monday give every member of his company the said form of contract. Signed Walter Hast.' Use your discretionary power.

"Frank Gillmore, Joe Weber, Charles Shay."

But Churchill, who was cognizant of certain telegrams sent by Hast to his manager, was firm in his conviction that Hast was not the free agent he represented himself to be. "Scandal" remained closed for the duration of the strike in Chicago.

At this juncture the Baggage and Parcel Delivery Drivers' Union assured Equity that it was with them, and promised that no cars of scenery would be switched, or baggage hauled to theatres on the unfair list. This would be extended, if Equity requested it, to the vaudeville, burlesque and motion picture houses not so far affected. In this promise the baggage men were joined by the Billposters and Billers who agreed that they would not post advertising of houses against which a strike had been declared.[15]

THE PARADE GETS A BAD BREAK

Such had been the success of Equity's parade in New York that it was decided to attempt a similar demonstration on Friday evening, August 22. An order from Police Chief John J. Garrity forbade policemen to allow the strikers to stop at street corners for speeches, or to make demonstrations, but he per-

mitted them to march from the Musicians headquarters on Washington Street to Aryan Grotto where a mass meeting was to be held.

There was not much money in the actors' treasury for music, but when Winkler called for volunteers from his union, and explained that there would be $100 to share among those who played, enough turned out to bring down the share of each to something like a dollar.[16]

Although the day had been fine and sunny, with sunset the weather became overcast, and shortly before the parade started from the musicians' headquarters at seven-thirty it began to pour. Luck was against the actors' parade in Chicago, as it had been in New York.

But where in the east people had turned out to cheer the players in spite of the rain, here the sidewalks were empty. Chicago had had two bitter quarrels in the recent past, a street car strike and a race riot. The public was off strikes for the time being. And so through cheerless, deserted streets the actors tramped soggily to Aryan Grotto, formerly the old American Music Hall, on Wabash Avenue between Eighth and Ninth Streets, cheering themselves to make up for the lack of public support.

The same lack of public interest was apparent in the meeting which had been called to arouse Chicago's sympathy with the actors. Aside from labor representatives and newspaper men, just one citizen of Chicago attended. He was the proprietor of a dancing academy on the West Side, named Smith, and he proceeded to place it and his orchestra at Equity's disposal upon call.

In the course of the evening brief addresses were made by Churchill, Mordant, Mary Tupper Jones (on the staff of the *New Majority,* official organ of the Chicago Federation of Labor), Oscar O'Shea, Charles Edward Russell, Francine Larrimore, Barret O'Hara, former Lieutenant Governor of Illinois, Ann Warrington, Grant Mitchell, Joseph Winkler, Dick Green, John Fitzpatrick and Gerald Griffin, who also sang for the meeting. A collection of $600 was taken up to meet general expenses. Then out into the streaming streets, still soaked, but with their courage and faith undamped, the strikers poured.[17]

Further support was offered Equity the next day, Saturday, August 23, by the Film Operators' Union, a branch of the

I.A.T.S.E., through its president, Thomas Reynolds. He announced that any attempt on the part of the Producing Managers' Association to reopen their closed houses with motion pictures would be vigorously resisted.

During the day Hast walked into Strike Headquarters in the Masonic Temple and offered the services of his company for a week as a "Benefit" for Equity. His offer was declined.

Since the beginning of the participation in the strike by stage hands instructions had been given to the crews of vaudeville and burlesque houses to strike the set each night at the conclusion of the performance, and not to reset the stage for the first act as was customary. This was done so that if the vaudeville and burlesque houses should become involved overnight, their stages would be cleared. Now, however, the old routine was restored, and the managers of those threatened houses heaved sighs of relief for in that order they read a decision to confine the strike to the legitimate houses in which it had begun.[18]

There was activity in some of the closed theatres, but it was only the activity attendant upon the visit of striking actors to remove their personal effects from the dressing rooms, and in some instances of the removal of scenery, with the permission of the Actors' Equity Association.

At this time the dyers and cleaners walked out as did the scene painters and builders in every local studio. And with the ringing down of the curtain on "Down Limerick Way" at the Olympic Theatre, the run of that piece ended. Chicago was now completely without legitimate dramatic entertainment.

GEORGE C. TYLER DEFIES THE STRIKE

On Sunday, August 24, George C. Tyler, full of animosity and defiance, blew into the city with his "On the Hiring Line" company, with which he purposed to open at the Blackstone Theatre in spite of the strike. Tyler, although not a member of the Producing Managers' Association at this time, was as bitterly hostile to Equity and all Equity stood for as the staunchest member of the Theatrical Syndicate could have been. His company had been recruited from the ranks of the Actors' Fidelity League

and other similar *friends* of Equity, and his first action was to broadcast through the newspapers that:

"I have brought to Chicago the company, the scenery, and the properties necessary for the production of 'On the Hiring Line' at the Blackstone Theatre.

"The ladies and gentlemen I have brought with me, after rehearsing in New York under intolerable conditions for three weeks, with representatives of the Actors' Equity Association dogging their footsteps and sitting on their doorsteps night and day in efforts, by pleas, threats and intimidation, to compel them to yield to an imposition which they will not indorse, resent with me this I.W.W. principle of lawlessness before which we are asked to yield.

"I am informed, however, by those locally interested with us, that the Actors' Equity Association and their allies have boasted that they will not allow us to carry out our contract, and that force and violence and even incendiarism will be employed to prevent us.

"Is it possible that the American public, with its traditional fair-mindedness, will indorse such an outrageous procedure?

"I don't think so. At any rate, the members of my company and myself will gladly take a gambling chance to find out if in doing so our action would not imperil the safety of those who have no concern in the differences of actors and managers, but merely desire to attend our performances.

"The first performance of 'On the Hiring Line' will be given the moment I believe it is safe to invite an audience to come to the theatre without risking their lives." *

The actors made no answer but announced to a meeting held in the Masonic Temple that afternoon at five o'clock, that the Auditorium Theatre had been secured, and that beginning on Labor Day, a week from the following day, an Equity Revue similar to that which was sweeping all before it at the Lexington Avenue Opera House in New York, would be offered to the theatre-going public of Chicago at a top price of about $2.

"Injunctions—and more injunctions," muttered the managers upon hearing this. "It can't be done." †

The hearings before Master-in-Chancery Zeisler which were resumed on Monday, August 25, were productive of a long and acrimonious controversy between Cruise and Rosenthal, manager

* *Chicago Post*, August 25, 1919.
† *Chicago Herald*, August 25, 1919.

for A. H. Woods. But it shed little light on the general situation, and did absolutely nothing to bring the strike nearer to a solution.

While this was going forward in court Tyler was vainly seeking his scenery, tucked away in a freight car somewhere in Chicago's railroad yards, and attempting to persuade someone to haul it to the theatre so that "On the Hiring Line" could be opened that night.

Tyler's announcement of postponement which he was forced to make because of his failure, was not based on those reasons, however, but upon his claim that his attorney had advised him that the performance could not be given with a guarantee of safety to the audience.

The next day Tyler found his scenery down on the Taylor Street siding of the Lake Shore railway yards. Guy Hardy, manager of the Blackstone Theatre, telephoned to the Hintz Express and Auto Van Company of 420 East 47th Street, to arrange for its removal. The superintendent of the company declined to touch it, when he learned that it was for a theatre against which a strike had been declared.*

Proceedings against E. N. Nockels and more than twenty of the striking actors, growing out of the walkout at the Woods Theatre, were pushed, and the defendants were ordered to appear before Judge Robert Emmet Crowe in Circuit Court the next morning to show cause why they should not be punished for contempt of court.

Nothing came of this order, for the next morning Zeisler adjourned, himself, the cast of "Up in Mabel's Room," and Nockels to New York to take further testimony. The next hearing in Chicago was postponed until Tuesday, September 2.[19]

By the morning of Thursday, August 28, Tyler had become convinced that he would not be able to persuade any of the regular moving companies to get his scenery up out of the Lake Shore Yards. A dozen private policemen and detectives were sworn in as deputy sheriffs, a gang of negroes was recruited, and the whole outfit was loaded into a number of laundry wagons, which rattled down to the yards. There, after driving off at the points of their guns the pickets who were on duty, the scenery was loaded, after a fashion, and convoyed to the Blackstone Theatre.†

* *Chicago Post*, August 26, 1919.
† Berton Churchill's account of the strike in Chicago.

While the "On the Hiring Line" company was going through its dress rehearsal on Friday night, with non-union stage hands, the theatre's electric lights connected to a portable lighting plant, assembled on a motor truck in the stage alley, in case any patriotic electrician in the Blackstone Hotel, from which the theatre's power was derived, should disable the lights, more than a thousand members and friends of Equity were attending the dance held in Professor Smith's hall. Courtenay and Hazel Dawn led the grand march, and the affair netted about $800 for the strike treasury.

A SUCCESSFUL DEFIANCE

"On the Hiring Line" opened on Saturday evening, August 30. In anticipation of trouble special guards circulated in and around the house. The scenes were never struck from one performance to another. Two girl musicians from a cabaret furnished the music. And during the week the strike lasted, there were times when there were more pickets on duty outside the theatre than there were legitimate patrons inside.

These pickets operated under considerable difficulties. Corner speeches were forbidden, sandwich signs were not allowed, nor was it permissible to distribute handbills. It was possible to sell a legitimate paper, and special editions of *The New Majority* were prepared for this express purpose, some of which were sold for as much as $10 a copy.

Those which were printed for the pickets bore on the first sheet in letters an inch and a half high:

"THE BLACKSTONE THEATRE UNFAIR TO THE A.E.A."

and the remaining three sheets were given over to strike news.

Girls were used exclusively for the picketing of this theatre. They were less likely to be troubled by those who objected to their presence, while an arrest of one of them would be of much value for publicity purposes.

Since the labor leaders had warned Equity that it was customary in labor disputes in Chicago to swoop down on pickets, arrest them, and take them to an outlying police station where they were held incommunicado for two or three days and their release delayed for at least that long because of the ignorance of their

friends as to their whereabouts, Equity had at all times taxicabs in waiting to follow any pickets arrested; and it was arranged with the labor organizations to have between $20,000 and $30,000 available for deposit as bail. The pickets covered the theatre from Wabash Avenue to Michigan Boulevard.

Picketing was restricted to members of the companies which had walked out. But one night a frail, little old woman, wearing dark glasses and led by a girl about fourteen years old took her place in the line and began to cry *The New Majority.* A picket remonstrated with her, but she pleaded that her other daughter was a chorus girl and a member of the Actors' Equity Association, and that she wanted to do all she could to help the organization, too. Several of the nights of that week she returned and took her place on the picket line.

Molestation of these girls was prevented by members of the striking stage hands and musicians as well as the actors. They watched the girls from the time they came on duty until they left, and none of the special guards was allowed to disturb them.*

A number of Equity stars left New York on Sunday, August 31, to take part in the Equity Benefit which was to open in the Auditorium Theatre the next day. They were mostly veterans of the first Equity Benefit at the Lexington Avenue Opera House in New York. In this class were Blanche Ring, Chic Sale, Van and Schenck, the Duncan Sisters, Joseph Santley and Ivy Sawyer, Charles Winninger, W. C. Fields, Pearl White and Frank Fay, and Wallace McCutcheon.

To this already imposing array was added the group of stars on the ground, so that when a $3,300 house turned out for the Labor Day Matinée, it witnessed, in addition to these players: Tom Wise, Ada Meade, Bryan Foy, Zoe Barnett, Walter Jones, Grant Mitchell, Eugene Howard, Douglas Leavitt, and an Equity chorus of about sixty. The Equity oration was in the hands of William Courtenay, and created the deepest impression of all that glittering show.[20]

On Wednesday, September 3, the last of the long drawn, futile hearings which had been conducted by Zeisler was held. Nothing was done but to agree not to take the cast to New York, as had been arranged, but to take, instead, another postponement.

There were no further hearings because Levy Mayer, the main-

* Berton Churchill's account of the strike in Chicago.

stay of the managers' legal staff, was called to New York at this point, and remained there for the duration of the strike as principal adviser of the Erlanger interests, and one of the real forces in bringing about the settlement. He had seen enough of the applied power of the strikers and their allies in Chicago to realize the hopelessness of a longer fight.

But these numerous, if fruitless, hearings demonstrated beyond question the wisdom of Nockels and the other labor leaders in their protest against the tactics which had been imposed upon Equity by Fuller while he was in charge of the case. For the hearings actually never came to a decision while the strike was in progress, and had Equity accepted the terms Fuller was willing to allow, the strike in Chicago would have remained in a permanent state of suspended animation.

However right Fuller may have been in his legal conceptions of the duties and privileges of the actors in their war-time state, his theories were disastrous when applied to the conditions existing. For this was war, and had to be decided in the field, and at once. It could not have been possible to allow the decision as to a strike to drag on from hearing to hearing and court to court. Before the first decision was reached the strike had been fought and won, and successive appeals would have had to be carried on by the actors' descendants.

THE END OF THE STRIKE

The next day the first flurries caused by the false armistice reported from New York, created a stir in Chicago. But the strike leaders, warned by Gillmore, continued their activities without cessation. Churchill and Sam B. Hardy, who headed the Entertainment Committee, announced a renewal of the lease of the Auditorium for another week, and released the news that the proceeds of next Sunday's matinée would be donated to the three Tanner children, left orphans the previous Monday when a train had struck and killed their parents near Hubbards' Woods. The situation had been dramatic, for Mrs. Tanner had caught her foot in a switch some time before the train arrived and frantic efforts to free her had failed. Tanner refused to leave her and clasping her in his arms, was killed with her. The tragedy had

created a great impression on the public mind, and this offer to help provide for the Tanner children drew the first united praise of the Actors' Equity Association which the Chicago press had bestowed.[21]

When the strike actually did come to an end, the Chicago managers and actors alike had been warned sufficiently in advance to insure the opening of all theatres on Saturday afternoon, September 6. With the exception of "The Passing Show," which had been brought back to New York by the Shuberts, and "A Prince There Was" all the companies had been kept intact by the managers, and there had been only one or two instances of attempted filling of rôles by strike breakers. So, by two days, Chicago beat New York back to life as a show town.

Churchill and Mordant closed Equity Headquarters in the Masonic Temple on Tuesday, September 9, and returned to New York with $400 to $500 more than the money which had been advanced to the Chicago strikers from New York, and with all debts paid. The projected additional week at the Auditorium was cancelled as the Equity benefits in New York had been.[22]

The first half of the strike in Chicago was a succession of wasted opportunities, caused by indecision and procrastination. But for the forthright objection of Ed Nockels these might have continued indefinitely; and while they lasted Chicago would have been a point of dangerous weakness for the actors.

From the time of the arrival of Churchill as commander, and his establishment of cordial relations and coöperation with all the labor organizations, things went better.

But the bad beginning, and the indifference of the theatre-going public to the issues involved, were terribly difficult to overcome, and Chicago was just beginning to swing to Equity when the strike was ended.

All things considered, the Equity strike in Chicago no more than got by.

Chapter XX

THE SITUATION IN BOSTON

All of Boston's feverish participation in the strike was crammed into the last week of its duration. But from the very beginning of the struggle both the actors and the managers appreciated Boston's strategic value, and the three weeks which preceded the meeting that authorized a strike witnessed a constant exertion of pressure from both sides upon the actors and actresses who were playing there at the time. It was not until the last minute of the eleventh hour that the courage of one harassed chorus girl insured a complete victory for the actors.

When the strike broke on Broadway on the evening of Thursday, August 7, there were four legitimate dramatic companies occupying theatres in Boston. They were "See Saw" (Henry W. Savage), at the Tremont Theatre; "Hitchy Koo" (Raymond Hitchcock), Colonial; "Oh, My Dear" (Comstock and Gest), Wilbur; and "Buddies" (Donald Brian, Peggy Wood and Wallace Eddinger in association with the Selwyns), at the Park Square. All of these were musical shows and the total number of actors and actresses playing in them was in the neighborhood of one hundred and fifty.

On the night after the opening of hostilities in New York, Echlin Gayer, of Equity's Council, left New York for Boston to survey the situation there. In his pocket he carried a card from Gillmore giving him discretionary power, even to call a strike if that seemed advisable.

Immediately upon his arrival Gayer registered at the Thorndyke Hotel under an assumed name, as he had been warned in advance that as soon as the managers learned of the presence of an Equity representative in Boston they intended to plaster him with injunctions from head to foot, and to render him impotent to hold meetings and urge a strike. He would face jail for contempt of court if he defied the injunctions.

Gayer's next step was to get in touch with Donald Brian, one

of the owners of "Buddies," and to learn from him the temper of the actors, and where he could expect help in Boston.

Brian sent him to Dr. Morris W. Quinn, a brother of Jack Deveraux, an Equity member. Dr. Quinn offered the use of his offices for the meeting of the "Buddies" company which Gayer had called to follow the matinée, and recommended William Flaherty as the man to handle Equity's legal problems.

The latter advised Equity's representative to drop his false registration, as that was a dangerous practice in Boston. Accordingly Gayer checked out of the Thorndyke and transferred himself and his activities to the Brewster Hotel, where he was entered under his own name.

His fear of legal proceedings was well founded, for as soon as the managers' legal representatives got wind of his arrival he was visited in quick succession by process servers with injunctions covering each show then playing in Boston, and even for those scheduled to open in the near future.

In view of these injunctions it was not deemed expedient for Gayer to address or even attend the general meeting of Boston players which was held that night in the Brewster Hotel. He remained in his room on the floor above and Equity's situation and policies were outlined to the meeting by Hal Forde, Frank Conlan and Adrian Rosley.

As a result of that meeting Gayer was able to write to the Council that night: "All companies in Boston are 100% loyal with the exception of 'See Saw' which seems to be 100% 'See Saw.'" *

A Savage counter-attack in defense of "See Saw" was the first managerial reply to materialize. On Tuesday, August 12, Thomas J. Barry, representing both Colonel Savage and the Selwyns appeared before Judge Lawton in Superior Court and obtained stringent temporary injunctions protecting "See Saw" and "Buddies" from any influence Gayer might be able to exercise. In that covering "Buddies," for instance, he was specifically enjoined from: "Ever approaching or talking to the members of the 'Buddies' company . . . on the subject of the strike." [1]

Not content with that protection Arch Selwyn, who had come on from New York to stand guard over his Boston property, that night concluded the sale of the remaining portion of the produc-

* Echlin Gayer's account of the strike in Boston.

tion to the three co-stars in his company, who announced that they would take the play to New York on their own account after its run in Boston.[2]

The next day, in the same court, it was the turn of Hal Forde and his fellow members in the "Oh, My Dear" company. They, too, were forbidden to listen to anything Gayer might have to say to them which contained the germ of an idea of a strike.[3]

After an adjournment of two days everybody reconvened in Suffolk County Court, where Colonel Savage's temporary injunction was continued over the week end. The Selwyn's attorney notified the court that, as his client had sold all of his interest in "Buddies" to the three leading players, he was no longer concerned with the production at the Park Square, and in effect, washed his hands of responsibility for anything that might happen to it. "Oh, My Dear" continued to wear its injunction tin can over the week end.[4]

Gayer, full of honors and injunctions, now returned to New York and strongly recommended that no strike be called in Boston for the time being as, in his opinion, Boston was not ready for it. He declared, however, that if a strike should be called there later, it would be highly successful.[5]

His place as the leader of the Equity forces was taken by Will Deming, also of the Equity Council, and likewise a member of the Executive Committee of the Council, who arrived with A. H. Woods' "Breakfast in Bed" company, on Monday, August 18.

With the company came also a brand new injunction which was immediately presented to and issued by Judge Lawton. Similar protection was sought, and obtained, by Arthur Hammerstein's "Somebody's Sweetheart," as soon as it detrained. Under this protection "Breakfast in Bed" set up shop in the Plymouth, and "Somebody's Sweetheart" at the Shubert Theatre. Seemingly, Comstock and Gest were satisfied that "Oh, My Dear" was safe from strike propaganda for they consented to a dismissal of the temporary injunction which had covered that company.[6]

During the next nine days the situation in Boston was outwardly static, but beneath the surface the pot was boiling. Secretly the Equity leaders held meetings and assayed the loyalty of members of the various companies. As the fight increased in bitterness in New York and Chicago it became more and more

apparent that, however strenuously they might wish to avoid it, the players in Boston were destined to become involved also. The main question was to what extent they would become involved, and whether the managers might not salvage one or more companies from the cataclysm.

And, as the actors were lining up their forces, so the managers in that period of waiting were endeavoring by promises, threats, cajolings and legal actions to bind their players to them. Indicative of the state of mind which prevailed among the actors and actresses playing Boston then, is Will Deming's account of the situation as he later submitted it to the Council.

WILL DEMING ANSWERS SOME QUESTIONS

"When I arrived in Boston I found all the boys working their heads off to convince the people that an injunction did not mean they would go to jail, have their bank accounts confiscated and their wardrobes seized, as Judge Brackett (and, by the way, I never could find out just what he was a judge of, as he was not on the bench. I think it was a title given to him by Mr. Savage to impress the actor, which it certainly did), said it would.

"Mr. Forde wanted me to take charge of the situation, being a Councilman and a member of the Executive Committee, but as he and his lieutenants had handled the situation so well I insisted on working under him. I had a talk with our lawyer Mr. Flaherty and told him that as the people were all frightened to death, the only thing to do was to have some man who was well known and had some financial responsibility get up on the stand and say that he would strike no matter what happened, in spite of injunctions, and that would set an example to the other people. However, the other people were not to follow the lead and say they would strike but when they were asked the question to say they had not made up their minds. As I had proposed the scheme I saw no other way out of it but to elect myself the one to be placed in danger of going to jail for contempt. I talked it over with Mrs. Deming and assured her of the necessity of such a move. She agreed to do the best she could under the circumstances and for me to go ahead. I think she even suggested the rest would do me good."

The trial of the injunction against the "Breakfast in Bed" company came up before Judge Lawton on Wednesday, August 27. It was an open secret that Woods' attorney meant to put Deming on the stand first and tie him into hard knots. The attorney opened the examination of the actor in a humorous vein. Deming, all dignity, turned to the Court and said:

"Your Honor, I thought that this would be a dignified proceeding. If this sort of thing is what this man wants, they sell it at my counter."

"What's your business, Mr. Deming?" the examiner queried, returning to the attack.

"I earn my living by depicting parts on the stage," Deming answered.

"You're an actor?" the lawyer persisted.

Again the actor turned to the black-robed figure on the bench. "May I be permitted, your Honor, to answer the questions?" he asked. "He asks them and answers them himself."

"Let Mr. Deming answer the questions," the Judge directed.

"Why won't you say you are an actor?" was the next question.

"You'll never get me for perjury," Deming retorted.

A little later in his examination the Woods' attorney asked him what a bad manager was. Deming drew a long breath and looked him full in the face.

"A bad manager," he said, and his tone was loud and clear, "is a man who takes his company to Quincy, Illinois, and closes it after the Saturday matinée, necessitating the members of the company paying their own sleeping car fares to East St. Louis, where he plays Sunday afternoon and night, for which he does not pay the company, yet docks it for the Saturday night lost for his convenience. That, I think," he finished gently, "is a bad manager."

And the attorney of the producing manager did not pursue this line of inquiry further.*

The injunction was made permanent despite the defense put up by Deming and others of the company. Deming, in particular, now faced the prospect of a six months' jail sentence and a heavy fine for contempt of court if he walked out and the actors lost the strike. For this eventuality and to stiffen the morale of his

* Will Deming's account of the strike in Boston.

company in the situation Deming was prepared, personally, to provide bail bonds up to $40,000.

WILSON ISSUES THE STRIKE CALL

Two days later, on Friday, August 29, Francis Wilson came on to tell the Boston players that the time had come for their contribution to Equity's cause.

A great meeting attended by nearly two hundred persons, was held in the Hotel Westminster after the Friday evening performances, and lasted well into Saturday morning. Hal Forde, as chairman of the gathering, received the strike motion proposed by Francis X. Conlan and seconded by Adrian Rosley, by which the actors present pledged themselves not to appear at the scheduled Labor Day performances next Monday afternoon.[7]

Although the resolution was unanimously adopted, not all of those who voted strike early that Saturday morning walked out on Labor Day.

The public announcement that there would be no performances on Monday, which was made from the stage of the Wilbur Theatre that night by Hal Forde, brought Henry W. Savage and Will Page hurrying up from New York. They immediately threw themselves into the task of holding some, if not all, of the threatened companies in line.

Of the productions then playing in Boston only "Buddies," now owned in its entirety by its three co-stars, and "Oh, My Dear," were at liberty to do as they wished, untrammelled by legal threats. All the remaining companies had been severally and severely enjoined, and in several instances intimidating tactics had been employed to bluff the actors into remaining at their posts whether they wished to stay or not.

For instance, Judge Brackett of Colonel Savage's legal staff, had lectured the members of the "See Saw" company in a meeting at the Hotel Touraine on the sacredness of contracts, and had intimated that all those who walked out in defiance of the injunction would inevitably walk into jail. Not satisfied with that protection Colonel Savage also had a man planted in the theatre during rehearsals, and the chorus girls were informed that he was the Sheriff of Suffolk County. The leaders of the Actors' Equity

Association were trailed wherever they went, and all those to whom they talked were noted. It was such espionage which had partly nullified the secret arrival of Gayer earlier in the strike, and which had postponed the decision until this late date.

Through these tactics "See Saw" had been tied up pretty tightly, and Colonel Savage and Page believed that they would be able to save this one company at least.

The Equity leaders also had been concentrating on the "See Saw" company ever since the taking of the strike vote. One actor, John McKenna, not a member of Equity, had not been included in the proceedings which had covered the other members of the production. After some persuasion he agreed to join Equity and walk out, but a Savage partisan got word of his promise in time to permit the Colonel to slap an injunction upon McKenna also.

On Sunday night a meeting of the "See Saw" company was held in Frank Carter's room in the Lennox Hotel. At that meeting five of the principal actors of the company, all members of the Actors' Equity Association, Frank Carter, Charles Brown, Charles Esdale, John McKenna and Frederick Graham, declined to walk out the next day, because they had been convinced by Judge Brackett's arguments on the inviolability of contracts. They did agree, and then and there did write out their two weeks' notice of termination of contract for delivery to Colonel Savage. Further than that, despite the arguments of their fellow players, they refused to go.

By a process of elimination the success of the closing of this play came to depend upon the loyalty and intrepidity of Kathleen Carroll, a seventeen year old dancer and a member of the chorus of "See Saw." According to union rules the stage hands and musicians, upon whose coöperation here, as elsewhere, Equity was counting, could walk out in sympathy only when one or more members of an affected house were actually on strike. If Colonel Savage could so manage it that no member of his company would declare himself or herself on strike the stage hands and musicians would be bound to remain. The strike would be stopped in that house, and the morale of the strikers would be dangerously impaired.

Kathleen Carroll had joined the Actors' Equity Association

after the declaration of war in New York, and only two or three weeks prior to this call for volunteers. Her promise to go out on orders from the strike meeting had been given to Frank Conlan just before the meeting was held. And then, because her mother was visiting her at the time, she dropped out of sight of the strike leaders for two or three days.

Conlan had not mentioned her name to the meeting of principals of the "See Saw" company, as he wished those members to believe that the situation was squarely up to them, and he was fearful that once more an informer might spoil his plans by divulging the identity of Equity's reliance to Colonel Savage.

THE HEROINE OF THE BOSTON STRIKE

So Frank Conlan and Adrian Rosley took up their positions at opposite ends of the alley which led to the stage door of the Tremont Theatre on Monday afternoon without any definite assurance that they would be able to pull off a successful strike at this theatre. Of all the remaining theatres they were certain, even though the margin at the Shubert Theatre, where Arthur Hammerstein's "Somebody's Sweetheart" was playing, was one chorus man, Basil Stratti. But they were sure of him, and he came through as he had promised. Here they had only hopes.

In order to make certain that there was no slip from the stage hands' and musicians' side of it Fred Dempsey, a vice-president of the International Alliance of Theatrical Stage Employes, was in charge of the situation in the theatre.

Shortly before half hour, Carter came up the alley, accompanied by his lawyer. Conlan intercepted him, and made a last minute plea to walk out, but Carter, on the advice of his attorney, considering only the legal angle of his contractual obligations, refused to help his fellow players and continued into the theatre.

As he disappeared into the stage door a voice spoke in Conlan's ear. "I'm a stage hand at the Tremont. Everywhere you go a guy is following you, Pal—he's been following you all morning."

"How do you know?" the startled Conlan demanded.

"I've been following him," was the answer. "Do you want me to soak him in the jaw?"

"No. Don't start anything," replied Conlan, and turned to the business in hand.

He made one more appeal, to Sidney Reynolds, a chorus girl of the company who had listened to his arguments and had seemed impressed by them. But she could not bring herself to the point of defying Colonel Savage and the laws of the State of Massachusetts.

By now the time was perilously short, and Conlan was beginning to fear that in spite of his precautions Kathleen Carroll had managed to get into the theatre unperceived.

Then there came to him Helen Gates, a member of his own company ("Oh, My Dear"), and informed him that Kathleen Carroll had received his message at her apartment, and was looking for him. Immensely relieved, Conlan gave Dempsey her name as the member of the "See Saw" company who was going to walk out.

Shortly after two o'clock Kathleen Carroll came running up to Conlan. He informed her that she was expected to walk out of "See Saw" as the other Equity members of that company had, apparently, deserted under fire. Greatly impressed by her responsibility, she renewed her promise, insisting only that she should go to tell Colonel Savage of her decision. And in spite of Conlan's demur, she stuck to her point, and finally trotted off to beard the lion in his den.

In the meantime Dempsey had gone to the stage manager, a man named Gardner, who was the Equity Deputy, but who was reported by the strike leaders as being Colonel Savage's spy, and notified him that Kathleen Carroll was out on strike, and that there would be no performance.

Gardner, in his official position as stage manager, declared that all the "See Saw" company had reported for work.

"Has Kathleen Carroll reported?" Dempsey inquired incredulously.

"Yes," Gardner asserted, and the strike seemed to be off.

But a little, lisping, languid chorus girl, hearing only the question and answer, and ignorant of its meaning, desiring only to ingratiate herself with the stage manager, spoke up:

"Caddie Carroll isn't here yet, Mr. Gardner." The fat was in the fire again.

Instantly the stage manager sent for Colonel Savage, who suavely informed the official of the stage hands that: "We have another Equity member who will take Miss Carroll's place."

"That other Equity member we'd call a scab, and we do not work with scabs," Dempsey answered.

At this juncture Miss Carroll arrived at the stage door and informed the stage carpenter that she was on strike. Instantly Colonel Savage and his stage director, John McKee, ran to her, attempting to dissuade her from her announced decision.*

In the little narrow alleyway Savage and McKee, both six footers, towered over the slighter Conlan and the childish figure of seventeen year old Kathleen Carroll, pouring all their powers of persuasion and command into bending her will to theirs.

She was crying frankly but she persisted in her statement that she was on strike. Meanwhile as the tail end of the Labor Day Parade passed behind the theatre, Adrian Rosley hailed a taxicab and held it at the stage alley entrance, with its motor running.

Finally Miss Carroll broke away from Savage and McKee, and ran to the taxicab. Conlan jumped in and Miss Carroll set foot to the running board. As Conlan grasped her right hand to help her in, Colonel Savage seized her other hand and prevented her from entering the taxicab, while McKee called a policeman and ordered him to arrest Conlan and Rosley for attempting to kidnap the dancer.

"What's the matter?" the policeman asked the girl, looking suspiciously from one to the other, while the crowd which had been watching the parade gathered to listen to the impromptu debate.

Kathleen Carroll was sobbing from emotion, but her heart was still staunch and her head clear. "I don't want to work today," she declared, "and these men" (pointing to Savage and McKee), "want to force me to."

"But she must work today," Colonel Savage insisted, "or my whole company will be out on strike."

"I don't want to work," the girl sobbed. *"I'm* out on strike!" And the crowd cheered.

"Let go that girl," the policeman ordered the manager sternly,

* Francis X. Conlan's account of the strike in Boston.

"or I'll lock you up yourself." And again the crowd yelled in delight.*

In a moment it was all over, Kathleen Carroll had joined Conlan and Rosley in the taxicab, and they had sped around the corner, leaving behind them a theatre which was spilling its disappointed audience into the street, and making Boston's end of the strike 100 per cent.

"Breakfast in Bed" at the Plymouth; "Hitchy Koo" at the Colonial, in spite of Raymond Hitchcock's hopes that his personal loyalty to Equity would enable him to keep his play running; "Oh, My Dear" at the Wilbur; and "Buddies" at the Park Square, were all closed by simultaneous walkouts of casts, stage crews and musicians, although in none of these houses was the walkout unanimous.

THE END OF THE SKIRMISH

The members of "Somebody's Sweetheart" company departed immediately for New York, though the union baggage handlers would consent to transport only the personal baggage of the company. The remainder of the contestants settled down to fight it out on that line if it took all summer.

Promptly the next day the managers turned to the courts for redress. Ray Comstock and William Elliott for "Oh, My Dear," made Hal Forde defendant in a suit for $100,000, while Woods' attorneys haled Will Deming and Paul Frandy into court for contempt because they had disregarded the injunction covering the "Breakfast in Bed" company.[8]

The same afternoon the strikers met at the Crawford House, donated for the occasion by its proprietor, Mr. Rae, and heard John Cope and Harry C. Browne of Equity's Council offer $1,000 from the central war chest, if it should be deemed necessary; while Harry Jennings, of the Boston Central Labor Union, John J. Barry of the stage hands, and Fred Dempsey, an international officer of the same union, and other labor leaders, pledged their unlimited support to the actors. Plans were immediately gotten under way for a benefit performance similar to those given by the striking actors in New York and Chicago, which was scheduled for the following Monday at the Castle Square Theatre.[9]

* Adrian Rosley's account of the strike in Boston.

Howard Kyle staged an invasion of Boston on behalf of the Actors' Fidelity League and the Producing Managers' Association on Wednesday, September 3. He immediately announced a meeting the same night at Steinert Hall for the purpose of organizing a local branch of Fidelity.

The elements were against Kyle in his attempt. That night a terrific rainstorm, one of the heaviest experienced by Boston in years, swept the city and flooded the streets. Only about thirty people braved the storm to struggle into the hall to hear what Kyle might have to say. Most of the thirty were managers, press agents, and newspaper reporters. The pickets found not one bona fide actor or actress to dissuade. When Kyle had finished his impassioned speech and asked recruits to come forward and obtain application blanks, not one soul stirred.* And the taxicab drivers, members of the Brotherhood of Teamsters, Chauffeurs and Stablemen and Helpers, boycotted Steinert Hall that night.†

A brief attempt was made by the State Board of Conciliation and Arbitration, through its Chairman, Commissioner Charles G. Wood, to institute a public investigation to fix the cause and responsibility for the strike, which affected, as he expressed it: "Even the most peaceful employes," but this, and the various court actions, were all abruptly terminated by the settlement of the strike in New York on Saturday, September 6.[10]

The strike in Boston was a picturesque skirmish, heightened by the dramatic contest over Kathleen Carroll; and it did draw a line between the loyal members of the Association and those to whom fear or self-interest loomed bigger than any other consideration.

But important as it was to those who participated in it, Boston was merely an outpost action, and one which had little weight in the final settlement of the issue between the Actors' Equity Association and the Producing Managers' Association.

THE FRUITS OF THE STRIKE

So ended the greatest struggle in the history of the legitimate theatre. It had lasted for thirty days, had spread to eight cities; had resulted in the closing of thirty-seven plays; had prevented

* *New York Morning World,* September 4, 1919.
† *New York Call,* September 6, 1919.

the opening of sixteen others; and had cost everybody concerned, in round numbers, three million dollars.

The Actors' Equity Association had entered the fight with a membership which was wholly unproven, and which was able to guess only, at its potential strength. When the smoke had cleared away and the casualty lists were examined, it was found that the membership, 2,700 at the time of the firing of the first gun, had increased to more than 14,000. And best of all, it was an organization which had gone through a gruelling fight, and had won.

In the Equity treasury at the beginning of hostilities had been $13,500. Now at its end, despite the tremendous drains upon it, which, after the first two days of the strike amounted to more than $5,000 a day, there stood to Equity's credit more than $120,000.

There had been uncertainty as to the quality of the leadership of the actors, and of its ability to cope with the immense and varied problems of the strike, but the conclusion of the battle disclosed that leadership triumphant. On every ground, at every turn, Equity's strategy had met and overcome the tactics of its experienced opponents.

From the very beginning Equity had enjoyed the favor and the confidence of the public. In victory, that favor and confidence was still retained.

But victory was not without its dangers. A victorious army is less amenable to discipline, and less responsive to command than a force which is aware that every ounce of strength is necessary to win its campaign.

The managers, too, though badly beaten, were not conquered or convinced of Equity's essential superiority. And the wrangles of the long day during which the terms of the Basic Agreement and Contract had been drafted had destroyed the good feeling achieved during the negotiations which had preceded the agreement.

That agreement had left enemies friends. The ceremony of signing found managers and actors with their backs to each other.

END OF PART I

Part II

THE LONG, LONG TRAIL TO EQUITY SHOP

Chapter XXI

THE LET-DOWN

The reaction from the emotional exaltation which had characterized the strike made itself felt the next day. Due partly to the lateness of the hour at which the final meeting had ended, which prevented the Sunday papers from getting complete and accurate stories, since all Sunday papers in New York are issued earlier than those on week days; and due somewhat to the soft pedal which had been placed on victory celebrations in order to spare the managers' feelings; considerable uncertainty existed as to what the terms were. To explain the new Basic Agreement and Contract, a meeting of Equity members was called for two o'clock in the Lexington Avenue Opera House.

The theatre was packed when the curtain rose disclosing the Officers and Council of the Association, the Presidents of the Labor Unions whose assistance had meant so much to the actors, the various Counsel who had waged the Association's legal battles, and heads of the more important committees at Strike Headquarters. At least two of those on the stage, Gillmore and Turner, were there in defiance of their doctors' orders; for, due to the terrific strain of the burdens they had been carrying, both were on the verge of a nervous collapse.

It was quickly apparent that the meeting had little sympathy for the deprecatory manner in which it was asked to receive the victory. Equity had won a very considerable fight, it was assured, but all the speakers, from Francis Wilson who presided and opened the meeting, and including Gillmore, McRae, Bacon, Hopper, Frayne, Rubin, Shay, Weber and Lillian Russell, laid most emphasis on coöperation and forgiveness—and however ready the meeting was for the former, it had not cooled off to the point where forgiveness was either palatable or acceptable.

The flare of emotion in response to Grant Stewart's announcement, "I am quite willing to forgive and forget—with certain

mental reservations—and I am not thinking of the managers," * indicated the general temper of the meeting.

But even more than a chance to gloat over their recent enemies, the members there were most concerned with the concrete terms of the Basic Agreement and Contract—to learn definitely what they had gotten out of the strike.

The negotiations had been so clouded with releases, interviews, denials and counter-affirmations that no one, aside from the small group of negotiators, had any definite idea as to just where Equity had yielded or where the managers had conceded points.

And so, as the meeting wore away and the speakers continued to dwell on the necessity for amicable relations between the former combatants, dissension broke out on the floor and in the balconies. Applause pattered in the proper places, but it was light, and there were cries for the contract, and demands to know what had been done on specific points.

Turner attempted to answer, but was forced to ask for time to collect his thoughts and to send for copies of the contract, to make his explanations correspond absolutely to the text of the agreement.

The delay necessitated by the dispatch of a messenger did not allay the disorder. Rather it grew in force and intensity. And even with the arrival of his papers Turner made little headway. For he was a sick man, worn to the ragged edge of a break down, and facing a machine-gun volley of questions which poured from all quarters of the house.

The break occurred when he had proceeded as far as the four weeks' rehearsal clause. At that point a stentorian voice from an upper box bellowed:

"What about Fidelity?"

His query was taken up all over the theatre, repeated and hurled back at the speaker. Turner appealed to the presiding officer to bring quiet, and Wilson rapped for order, with little result. Turner endeavored to convince the members that there would be no discrimination between Equity, Fidelity and non-members of either group, in the casting of plays.

But the meeting was not to be convinced, and the disorder increased. Rubin sprang to his feet and cried:

* *New York Evening Sun,* September 8, 1919.

"You have gained all that you asked for, and more. If this contract is satisfactory to Samuel Gompers, is it not satisfactory to you?"

And almost as many cries of "no" answered him, as there were voices in the affirmative.*

Turner was through. Such a reception, coming on top of all that he had undergone in the last two months, had brought him to the end of his endurance.

"If that's the way you feel about it—I'm not going to tell you any more," he declared.

The meeting was out of hand now. A group of malcontents swarmed up onto the stage and surrounded the Officers and Council, demanding to be heard, and answered on the spot. Shouts of "We want to know what's in that contract"; "We've got a right to know what it says"; "Steam roller tactics!" † drowned out the attempts of Gillmore and other officers to reply. For a few brief moments it looked as though physical violence would be visited upon those who had, only a few hours before, won the greatest fight in the history of the stage.

Several of the Councillors edged their way in between Gillmore and the rioters, and the stage hands of the Lexington Avenue Opera House began to lower the lights as in intimation that the meeting stood adjourned. Slowly, sullenly, with much muttering and gesticulation the actors, loyal and disgruntled, withdrew to the street. As they left, they were advised that on the following day another meeting would be devoted entirely to answering questions on the contract.

In such manner was the announcement of Equity's victory received. One afternoon of peace came nearer to wrecking the prestige and morale of the Actors' Equity Association than the combined assaults of all the managers together in one month of warfare.

MOPPING UP

The next day, Monday, September 8, the hall was jammed to hear the official construction of the contract. John Emerson,

* *New York Tribune*, September 8, 1919.
† *New York Times*, September 8, 1919.

from this time increasingly important in the affairs of the Association, presided.

There was still uncertainty in the minds of many of those who attended as to the benefits which had been won, and there was little disposition to give the contract a blanket endorsement, sight unseen, but the night had sobered many who had been under the influence of their emotions on the previous afternoon, and the newspapers that morning had revealed the extent and magnitude of Equity's victory. The temperature of this day's meeting was perceptibly lower than that of its predecessor.

It was still a meeting which did not want to be pushed into taking any action until it had had its questions answered to its satisfaction, and a motion for ratification made before the audience was ready was simply snowed under.

Between the reassuring speeches of Emerson, Rubin, Dressler and Lackaye, and the skill with which Emerson felt his way along the precipice of popular opinion, when he deemed the time ripe for action on the vote of confidence in the officers and representatives of the Association, and demanded: "Do you approve of this settlement?" there was a roar of approval which shook the house. And when he asked for negative votes not one voice answered.*

The Actors' Equity Association had recovered its balance.

Fidelity, too, was in high spirits. Cohan read to a meeting the text of a letter, defining Equity's attitude toward members of the League. This was the letter promised when the peace negotiations were on the point of falling through, the letter which had persuaded Hopkins to sign the Basic Agreement. It read:

"I am directed by the Actors' Equity Association to say to you that Clause 5 of the contract dated this day entered into between you and the Actors' Equity Association, is understood by the Actors' Equity Association as having the same effect as if it read:

"5. Neither the Actors' Equity Association nor any member thereof shall refuse to perform services for any producer because of the presence in the cast or production of a person or persons not a member of the Actors' Equity Association or of the Chorus Association, or of a person or persons a member or members of the Actors' Fidelity League or any other association or organization.

"Yours truly,

"JUSTUS SHEFFIELD."[1]

* *New York Morning Sun*, September 9, 1919.

Fidelity seemed delighted with this letter which replaced the direct recognition it had demanded through Cohan.

As this meeting was disbanding a similar gathering was assembling in the offices of the Producing Managers' Association, for they, too, were uncertain as to just what their obligations were under the new contract. At its conclusion Sam H. Harris issued a statement in which he declared that, on their part, the managers were willing to forgive and forget. In that statement, the first issued by the managers since the settlement of the strike, Harris said:

"The Producing Managers' Association as a body are happy that the strike is over. Had it continued it would have done our business, the theatre, an irreparable damage. While the strike was in progress the theatre suffered, the actor suffered, the manager suffered, the playwright suffered, the stage hand suffered and the musician suffered. The help about the theatre suffered and the general public were denied amusement.

"We have arrived at an amicable settlement and everyone is satisfied.

"Now that it is all over and we are back on a friendly basis, let's all get together and help build up what the strike partially demolished.

"After all, we are all show people." [2]

As an earnest of their sincerity the Producing Managers' Association, and its individual members promptly ordered a discontinuance of all suits against the Actors' Equity Association, its officers and members, with the exception of Florenz Ziegfeld's action against Eddie Cantor and his colleagues of the "Follies," which, for some legal technicality or other was postponed until September 15, at which time it, too, was sent to the limbo of things lost.

SETTLING 2,470 CLAIMS

On this day, too, was held the first session of the Joint Committee of managers and actors which was to arbitrate the claims of those who could not be returned to the places they had held prior to the strike, either because the manager was not willing to receive them, or, more often, because non-members of the Actors'

Equity Association had been engaged on run-of-the-play contracts to replace them.

There were, in all, two thousand four hundred and seventy actors and actresses whose work had been interrupted by the strike. Not all of them came before the Joint Committee. In many instances whole companies were notified to return to work, or all of a company but one or two. Then only those who were not wanted were the concern of this board, and not all of those.

In little more than three weeks from the date of the first negotiations every Equity member who had walked out on a production, either playing or in rehearsal, had been returned to his original place, or had been given another part satisfactory to him, or had received compensation which was also acceptable to him. This was a record most unusual in labor disputes and drew the favorable comment of Frayne, Shay, Weber and other labor leaders who had anticipated that a certain percentage of cases would be unaccounted for.

Freed thus of the burden of war-time obligations Equity was able to turn to the problem of internal reorganization necessitated by its new state in the theatre. And these problems were serious enough, in all conscience.

For Equity, a peaceful, semi-organized Association, had been forced to erect hurriedly a war-time organization; it had engaged in a protracted and bitter struggle; and as it stood now, at its end, it was fitted for neither peace nor war.

In the first place it had more than doubled its membership, and in the rush of recruiting it had not stopped to ask whether all its new members were eligible or not for their new allegiance. Many of them, it knew, were of the vaudeville stage, and these had been accepted with the proviso that at the end of the strike they were to be transferred with their dues to the American Artistes' Federation, the Vaudeville Branch of the Associated Actors and Artistes of America.

Then it had been functioning during the strike under the dictatorship of one man, Gillmore. The Council, it is true, still continued to meet, but in order to relieve Gillmore of embarrassment it had refrained from passing any resolutions, or from taking any part in the governing of the Association.

Finally, the whole Association was facing entirely new responsi-

bilities and had far more to do than prior to the strike. Just how much there was to do, or to what extent its organization and personnel would have to be revamped to handle that work was unknown; but everyone connected with the Association realized that Equity's test was by no means at an end.

Of his own volition Gillmore, on October 14, asked to be relieved of the responsibility which had been voted him during the strike, and requested that he revert to the position of Executive Secretary, with the Council restored to its original power.[3]

Equity next tackled the problem of setting its house in order by transferring the vaudeville members who had come in during the confusion attendant upon the strike. A committee consisting of Paul Dullzell and Ralph Whitehead was appointed by the Council and on November 14 this committee completed the transfer of 883 members, together with their dues of $4,996, to the American Artistes' Federation. It was not an arbitrary transfer, for it had been stipulated earlier that if the transfer was not acceptable to the member he could decline to go into the Vaudeville Branch of the Association, and would have his dues returned.[4]

A REAL CHORUS ORGANIZATION

Equity had been urged by Frayne and other labor leaders to perfect the organization of the chorus section, which so far had only the temporary organization effected at its formation.

The first general meeting of the Chorus Equity Association was held at Amsterdam Hall on October 24. Marie Dressler, elected to the Presidency at its original meeting, was not present, for at the conclusion of the strike, she had begun rehearsals of "Tilly's Nightmare" and by this time was off on the road with that play. In her absence Turner presided.

That meeting reëlected Marie Dressler President; Ralph Whitehead, Treasurer and George Stifter, Secretary. In addition, it elected the first Council of the Chorus Equity Association. According to its constitution two-thirds of the twenty-one members authorized must be members of the Actors' Equity Association.[5]

The administrative work of this rapidly growing organization was not being done, however, by any of the officers or Councillors

but by a former actress and newspaper woman who had come to her present post almost by accident.

Dorothy Bryant was the daughter of Guy Nichols, a well known actor, and had, herself, started on the stage before turning to newspaper work.

A short time before the outbreak of the strike she came to New York from Baltimore, where she had been on the staff of the *Baltimore Sun,* and obtained a position with the *New York American.* In the first days of the strike she covered various phases of the struggle, eventually becoming more interested in the strike than in her newspaper job. She resigned from the *American,* and went to Marie Dressler, who was then beginning to emerge as the champion of the chorus girl, to handle her publicity.

On the day the strike ended Miss Dressler had begun work on "Tilly's Nightmare," and had taken Ralph Whitehead with her. Mrs. Bryant was asked to take on the work of the Chorus Equity office, then at 135 West 45th Street, across the street from Strike Headquarters, for a few weeks until "Tilly" came back to town. At first Mrs. Bryant signed her letters as "Secretary to Miss Dressler," but her work soon grew to such proportions that she was called on for decisions which no secretary to a President, however capable, is ever authorized to make. Gradually, therefore, there evolved the title of Executive Secretary, which seems to have been generated spontaneously, and was never officially conferred, but which continues to the present day. Her administration of that active and turbulent section of the theatre has been admirable and has been largely responsible for its efficient development.

Miss Dressler was finding it difficult to maintain her own work and handle the affairs of the Chorus Equity Association from the road, and so, on November 14, she sent from Kansas City a letter containing her resignation, and four days later was succeeded by Blanche Ring, then playing in "The Passing Show of 1919" at the Winter Garden.

STOPPING THE DRIVE FOR SUNDAY SHOWS

Extra performances without extra pay, forbidden by the Basic Agreement, were soon encountered by Equity. Samuel Dickstein,

an Assemblyman in the New York Legislature from a district in the Bronx, introduced a measure which would legalize Sunday dramatic performances in New York State in cities of the first class, of which there were at that time only two, New York City, and Buffalo. It was reported that a considerable lobby of managers was lined up behind this bill which would result in a decided increase in their profits.

At a meeting held in the Grand Ball Room of the Hotel Astor on November 30, Equity went on record against Sunday performances, not on religious grounds, but because of the general feeling that actors and actresses, especially the stars of emotional dramas, could not continue to perform seven days a week for months and keep their performances at the highest pitch.[6]

Such a law was also considered by Equity as tantamount to breaking down the eight performance clause, and as being the entering wedge for a longer working week.

Through personal representation in Albany, and in conjunction with the American Federation of Labor and the New York State Federation of Labor, the Dickstein Bill was defeated.[7] This bill, or others similar to it, have continued to crop out at almost every session of the Legislature, and apparently Equity has a perennial appointment to meet and defeat them.

The close relations which had existed between Equity and Federated Labor continued, although Equity, on November 17, declined to enter a proposed Allied Amusement Council composed of all the unions centering in the theatre, such as exists, for instance, in the Building Trades.

THE FIRST MOVIE EXPEDITION

The question of the jurisdiction exercised by the various unions is one of the most difficult and delicate in the whole range of the American Federation of Labor and the disputes which have their rise here frequently precipitate costly and damaging civil wars.

To obviate the possibility of such a conflict in its own field Equity applied to the Four A's for a clarification of its jurisdiction over the players of "bits" and "atmosphere" in motion pictures. The principals in this field had been claimed by and conceded to Equity from the beginning. The International decided

that Equity had jurisdiction over these people, on March 23, 1920.* The Federation had granted a charter to the Motion Picture Players' Union, an organization of "atmosphere" and "bit" players on the Pacific Coast. Authority over motion picture principals was claimed by The Screen Actors, and neither body wished to be absorbed by Equity.

Negotiations at long range were begun, and were continued for some months, but the motion picture actors, although they had been urged by the Executive Council of the American Federation of Labor to accede to Equity's request, stood fast, and declined to surrender their charter and apply for admission to the Associated Actors and Artistes of America.

Frank Gillmore, on January 14, left New York for the Pacific Coast to bring the motion picture actors into line. The Screen Actors of America, the principals' organization, succumbed to Gillmore's arguments before the extras could be won over. Both, finally, agreed to acknowledge Equity's jurisdiction over their members, and the Council, in return, voted that they might be accepted in Equity without the payment of initiation fees.

A general survey of conditions affecting motion picture actors on the Pacific Coast revealed that at that time there were prevalent remarkably few of the abuses which had driven the dramatic actors to organize.

The motion picture industry, even at that comparatively recent date, was still very young and had yet to develop its traditions to the point where they were generally accepted by both actor and manager.

There was still so much money to be made from the making, booking and exhibiting of motion pictures that the money to be gained by rigging the actors, considerable as that sum would have been, was a mere drop in a capacious bucket.

Nor was there any manager or combination of managers which, like the old Theatrical Syndicate, could then have arbitrarily imposed manifestly unfair conditions upon the actors as a class, and have carried them through. Competition was still keen, and the industry in such a state of flux that the actors need not have accepted those conditions.

But there were indications that the industry was beginning to

* Equity Council Minutes, March 29, 1920.

crystallize. Gradually from the ruck powerful individuals and combinations were beginning to emerge, and the tendency was toward the consolidation of the field in the hands of a few strong men.

In brief, conditions in the motion picture industry on the Pacific Coast in the winter of 1920 paralleled, to some extent, those which prevailed in the legitimate field about the time of the formation of the Theatrical Syndicate. And with the return of those conditions there was the possibility that the cycle would be repeated in its entirety, and that abuses of the actor would creep into motion pictures as they had crept into the dramatic companies.

There was, however, this difference. The actors of that earlier time were weak and disorganized, while the managers were gathered into a powerful and truculent group. There was further the devastating tradition that on all previous occasions on which the legitimate actors had attempted to fight unfair conditions they had been overwhelmingly defeated. Now the actors had just emerged triumphant from a long and bitter contest and were conscious of their power. It was the managers who were, for the moment at any rate, beaten and uncertain of themselves.

To offset this advantage again, many of the motion picture players, particularly its stars, had come direct to the films without stage experience and had little knowledge of or interest in the traditions or the history of the theatre. As far as they knew, the conditions they found had always been in existence. The need of a strong and watchful organization to cut down abuses as fast as their heads showed, was not apparent to these new players; nor, as long as they received what they felt was their due, were they much concerned with what might be done to those who came after them.

On the whole, therefore, the motion picture industry was considered a field for future activities on the part of the Actors' Equity Association, and one to be watched in the interim.[8]

As soon as Gillmore was back at his desk in New York negotiations were opened with the Motion Picture Players' Union, the organization of bit and atmosphere players in the studios of New York and its vicinity, which had been formed during the strike. On March 26, four hundred members of this organization, meet-

ing at Geneva Hall, New York City, voted to join the Actors' Equity Association, on certain conditions. These included their entry without the payment of an initiation fee; organization as a separate section of the Association; and the retention of the employment agency they had established.[9]

These conditions were accepted by the Equity Council on April 13,[10] and when on May 1, 1920, the Chorus Equity Association moved from the quarters it had occupied on West 45th Street to 229 West Fifty-First Street, the Motion Picture Section of the Actors' Equity Association went with it, and also the employment agency under the direction of Jack Frazier.

During the months which had elapsed since the strike Equity had undergone a great expansion. Not only were more actors and classes of actors under its jurisdiction, but more and more work was devolving upon the Headquarters staff of the Association.

The clerical work and correspondence necessitated had also forced the Association to expand its office force and increase its overhead expenses. The Council, after much consideration, decided to increase the annual dues from $10 to $12.[11]

A general meeting of the Association was called to ratify that change on April 4 at the Hotel Astor. There was some discussion from the floor but the figures quoted by the Executive Secretary which indicated that Musicians, Stage Hands and other branches of the Four A's, notably the Hebrew Actors' Union, were all paying more than Equity was asking, even with the increase, induced the meeting to vote to raise the dues.[12]

Although there was at the time little realization of the significance of a further step taken by the same meeting, there were few more important decisions taken by any Equity meeting than the assent which was given by this one to a proposal by John Cope that Equity accept the application of any member of the Actors' Fidelity League who might resign and apply for membership.*

At first blush this was asking a great deal, for so much feeling had followed the establishment of Fidelity that there were Equity members who declined to speak to Fidelity members wherever

* *Equity Magazine*, April, 1920, page 16.

they met. Naturally they were not disposed to receive Fidelity members with open arms.

But as long as Fidelity members had no other place to go, they would remain in Fidelity. And while the Actors' Fidelity League had a considerable number of members it would always continue to be a potential threat to the safety and peace of Equity, and would be a constant temptation to managers to stir up trouble against Equity. It would serve, in short, as a rallying point for all the factors in the theatre disaffected toward the Actors' Equity Association.

If the bars were let down, as Cope advocated, personal interest, a realization of the aims and policies of Fidelity and appreciation of the services of Equity, might lead a considerable number of Fidelity members to transfer their allegiance. The meeting in voting to accept such actors and actresses as had resigned from the Actors' Fidelity League helped to make Equity's future path more smooth.

Chapter XXII

A SUCCESSOR TO FRANCIS WILSON

Since shortly after the first of the year the Council had been faced with the necessity of selecting a new leader. Francis Wilson, Equity's first President, and the only occupant of that office in its seven years of existence, had let it be known that with the Annual Meeting, scheduled this year for June 4, he intended to relinquish his position and turn the conduct of the Association over to others.

Privately the other Officers and the Councillors of the Association canvassed the situation for the right man. They realized that, even with the victory Equity had won and its present position in the theatre, its troubles were by no means at an end. The Producing Managers' Association, beaten once, was not yet entirely convinced that Equity was the better of the two, and might conceivably determine to join issues again in 1924, if not before. And the outburst of radicals at the meeting in the Lexington Avenue Opera House on the afternoon of the day following the settlement of the strike, was an indication of dissatisfaction within the ranks of the Association which might require careful handling in the future. For many reasons the conferees decided that the new President must be a man as strong and as able as Francis Wilson.

From this consideration of various candidates and their qualifications, one man emerged as having, more than any of the others, all the qualities for which Equity was seeking. That man was John Emerson.

Few men in the American theatre have had either the versatility or the wide range of experience which Emerson brought to this candidacy. Knowledge of the actors' problems was his from thirteen years on the legitimate stage.

But he had also attained to distinction as a playwright and director. He was chosen as the producer of the plays of Clyde

Fitch which were produced posthumously, and in that capacity he edited "The City" and other Fitch plays. More than that, in collaboration with Robert Baker, he wrote several successful plays, notably "The Conspiracy" and "Step Lively."

For several years Emerson was General Stage Director for Charles Frohman, and directed many of that eminent manager's productions. After Frohman's tragic death, Emerson went into motion pictures, associating himself with the studio of D. W. Griffith.

In the Griffith Studio, at Hollywood, he met and married Anita Loos, herself already distinguished as a writer of motion picture scenarios, and together they became widely known as writers and directors of motion picture films.

It was in these capacities that he had been working in New York on the outbreak of the strike. He was not an Officer of the Association, or even on the Council, but with the calling of the strike he placed himself and his resources at the disposal of the Association. Gradually he became known to the leaders of the Association as a vigorous and resourceful executive, a tenacious and indomitable fighter, and an excellent judge of men and situations.

For these qualities he had been placed on the Joint Board which had conferred with the managers regarding the replacement or compensation of Equity members thrown out of employment by the strike. Here, again, he had distinguished himself by his willingness to continue a fight long after his colleagues had confessed themselves at the end of their resources; and he knew when to call a manager by his first name, and when to stand on his dignity. His work in this field had won him an appointment to the Council in the reorganization which had followed the strike, and had made him a marked man on the Council.

Best of all he was, through his own efforts, independent of any managerial pressure which might be brought to bear upon him, financial or otherwise. And this was a real asset in the eyes of those who had the matter under consideration. For a working actor can only antagonize the managers from whom he must seek his living at a tremendous risk, at the almost certain sacrifice of his career. Wholly aside from the personal sacrifice involved, it could not but influence to some degree the action of a Council to

know that opposition to the managers would possibly be visited on the head of the President of the Association.

So, those who were considering the selection of a new President for the Association felt that they should have a man experienced in the various angles of the theatre, but not one then earning his living as an actor; and that he should be free from any possibility of pressure.

With all these manifold advantages there was still one serious handicap under which such a candidacy would labor. Emerson was comparatively unknown to the rank and file of the Association. His many excellent qualities would have to be taken at the word of those who vouched for him.

Nevertheless the Nominating Committee, headed by Charles Stevenson,[1] handed in to the Council the nominations for the regular ticket headed by John Emerson, and including for the other elective officers vice-president, Wilton Lackaye; corresponding and recording secretary, Grant Stewart, and treasurer, Richard A. Purdy.[2]

OPPOSITION TO THE REGULAR TICKET

Two days later it became known that a petition containing, it was reported, more than two thousand names, had placed in nomination for the presidency Wilton Lackaye, whose name had appeared on the regular ticket for the vice presidency.[3]

The nominating committee notified all nominees and received prompt replies from all except Lackaye. Three times the committee wrote to Lackaye, urging his decision, the third time on April 26, requesting a definite reply at once. The next day Lackaye answered requesting until May 12, the last day on which nominations could go out to the membership, to make his decision.*

The nominating committee asked Gillmore to reply that such a delay would not be possible, and to inform Lackaye that unless his acceptance was received by May 1, it would be presumed that he meant to accept the independent nomination for the presidency, rather than the vice presidency he had been offered on the regular ticket.†

* *Variety*, April 30, 1920.
† *Equity Magazine*, May, 1920, page 14.

When no answer came to the committee in response to this ultimatum Lackaye's name was dropped from the regular slate, and the nomination given to Ethel Barrymore.

Immediately William J. Kelly, who was handling the Lackaye campaign, announced the independent ticket. This, of course, was headed by Wilton Lackaye.[4]

A Committee, headed by Bennett, waited on Lackaye at his home on May 3, and urged him to accept the candidacy for president on the independent ticket. In his speech of acceptance Lackaye declared that he would do so in order to prevent the fruits of the victory won by Equity in the strike from being frittered away by any official of the Association, however well meaning.*

Although it is customary in many instances for those who have been made nominees by both sides in an election contest to allow their names to go on both tickets thus insuring election, the issues were so personal in this contest that Emerson requested all those who had been given dual nominations to decide at this time on which ticket they desired to run. This applied to all save Richard A. Purdy, the treasurer, who was not an actor, and whose work was not affected, whichever side won.

But aside from Purdy, whose name continued to appear on both slates, there was a new line-up all the way around.[5]

THE CAMPAIGN

The campaign which followed was the bitterest in the history of the Association. The fires of discontent which had been smoldering for a long time unrecognized, now blazed up and threatened to consume the Association.

The climax of the campaign came in the public debate between the two candidates which was held in the Hotel Astor on May 30, the last Sunday before the Annual Meeting. Its scope was the broad "general good of the Association." Lackaye, well known for his caustic wit, and general prowess in repartee, felt that he had gained a considerable advantage in persuading Emerson to appear on the platform with him, for of Emerson's abilities in debate little was known at the time.

More than a thousand Equity members jammed the Grand

* *New York Morning World*, May 4, 1920.

Ball Room to hear the rival candidates. Francis Wilson was in the chair, and announced the rules which would govern the debate. Lackaye as the challenger was to open the argument, and might have an hour in which to develop his case. A like amount would be accorded to Emerson. For twenty minutes, then, Lackaye might refute any charges made against him, but might not introduce new evidence and Emerson would be bound by the same rule. The summation would be restricted to five minutes each, Lackaye leading off, and Emerson closing the debate.

Lackaye's argument was directed first against Emerson as an individual who was not an actor, but was actually a manager, and sympathetic to the managers; and secondly against the Administration of the Association which had chosen Emerson as its standard bearer.

The criticism of the administration centered about Colonel Earle Boothe, in his conduct of the affairs of the Association as head of the Entertainment Committee, and for his handling of the claims of the "Sinbad" company against the Shuberts, in which Boothe had antagonized the members of the company.

Emerson analyzed the services rendered by Lackaye as a Councillor of the Association, and charged that during the two years of his term, from 1913 to 1915 Lackaye had attended but two and one half meetings, though most of the time in New York or its vicinity.

He also asserted that Lackaye had been invited to read and dissect a Shubert contract before a general meeting of the Association in November, 1918, and had agreed to do so; but that later he had discovered that the Shuberts had an interest in the production in which he was appearing, and had declined to fulfill his promise on the grounds that he did not wish to single out any one manager since all were equally culpable.*

Between the charges and the refutations the air was surcharged with excitement and all Wilson's parliamentary skill was required to prevent the meeting from getting out of hand entirely. No balloting was done at this time, so no estimate of the value of the debate was available, but the surprisingly good showing of Emerson made a much deeper impression than had been anticipated.

* *New York Morning Telegraph*, May 31, 1920.

So bitter were the feelings of partisans on both sides that the campaign was carried to the floor of the Council Room. A communication from the Lackaye Campaign Committee was read to the Council on May 19, preferring charges against Grant Stewart, alleging that he had improperly made use of the prestige of his office to electioneer for Emerson in general meetings at Chicago and Boston, and had made grossly insulting and libelous statements concerning the independent candidate for the presidency at these meetings and in a conference in Providence with Berton Churchill, at that time nominated on the regular ticket for the Council.

For the statement concerning these and similar charges which the Lackaye campaign committee made and caused to be printed in *The Billboard,* charges were also preferred against W. J. Kelly, William Lydston and Francis Merlin by George Stuart Christie.[6]

The Council moved promptly to investigate both charges. Committees appointed to hear testimony regarding the statements attributed to Stewart at the meetings referred to, and to interview W. H. Donaldson, publisher of *The Billboard,* to fix responsibility for the charges of the Lackaye Campaign Committee printed in that publication, reported back to the Council within a short time. Stewart was completely exonerated of any suggestion of improper influence or of libel;[7] and the counter-charges of Christie were dropped when Donaldson could not say with any degree of definiteness by whom the article in question had been submitted.[8]

It was in the preference and the pressing of these charges that the first signs of an anti-foreign, and particularly anti-British, feeling became evident. Much of the exceeding bitterness with which the campaign was conducted sprang from no other source than this, and some of the scars of that campaign have not healed to this day.

THE ELECTION

One thousand and sixty-three members of the Association thrust themselves into that same Grand Ball Room on Friday, June 4, for the Annual Meeting. Even after the meeting was called to order the contending factions continued to electioneer in the lobbies and to attempt last moment conversions, as late comers sought to gain entrance. Through the readings of the various

reports and the farewell speech of President Francis Wilson this desperate snatching at votes continued, and up to the very minute the polls were closed.*

Before the cheering and applause which greeted Wilson's words had died away Bruce McRae was on his feet presenting a resolution which read:

"Be it resolved, by the members of the Actors' Equity Association in the general annual meeting, that the title 'President Emeritus of the Actors' Equity Association' be conferred upon our retiring President, Mr. Francis Wilson, for the rest of his natural life." [9]

McRae's resolution was passed without a single voice being raised in dissent. Francis Wilson had retired upon the crest of his wave of popularity.

The stage was now set for the real battle. The first skirmish came with the announcement by Wilson that Charles B. Welles, Brandon Tynan and Charles Sindelar would be the tellers; and that only those who were not present at the meeting would be allowed to vote by mail—all those who had so voted already but who were then present would have to vote again to make their ballots lawful.

In an instant Lackaye was on his feet protesting against this ruling, which he declared was designed to nullify votes already cast for him. In rebuttal Gillmore and Turner argued that the Constitution permitted voting by mail only to those who could not attend the Annual Meeting, while those who were present could only vote there. In order to give everyone a chance to vote the ballots had been sent out on May 12, and many, not knowing at that time whether or not they could be in New York on June 4, had voted at once. Now those who were present were advised that to validate their ballots they must vote again, and that the vote cast at this time would be taken as the final ballot, and the previous one thrown out. This move, both spokesmen for the Administration pointed out, had been undertaken only after conferences between Turner and former Vice Chancellor Merritt Lane of New Jersey, an authority on constitutional law, and one of Equity's counsel during the strike.[10]

Still Lackaye was not satisfied, and warned the meeting that

* *New York Morning Telegraph*, June 5, 1920.

double voting was a felony. His insistence on this point almost precipitated a riot. The uproar rose and fell and bubbled up again in various quarters as the excited members poured up to the ballot boxes, voted and subsided again. Then it was announced that a decision would be made public by the tellers at Equity Headquarters on Monday, the seventh, and the meeting, still seething and swirling with the currents of its emotions swept out into the street, while the tellers and their boxes under heavy guard, took taxicabs to Equity Headquarters, there to be locked in a room on the third floor until they had completed their weary task, with brief intervals for eating and sleeping.*

EMERSON WINS THE PRESIDENCY

The job they faced was complicated by the necessity of checking each of the more than thirty-seven hundred votes against the voter's name, making sure which was the legal vote cast, and throwing out extra ballots or those spoiled in the making.

Monday brought a further postponement till Tuesday the tenth, the tellers having found the going even harder than they had anticipated. But though there was no definite news, rumors were circulated that Lackaye had swept the field.

These rumors were given semi-official sanction by the fact that a Lackaye ballot had been privately mailed out to all members, with a stamped and addressed envelope, and those who had handled the ballots at Headquarters had for some weeks past been aware of a flood of stamped, addressed envelopes swimming in with every mail. Knowing that the envelopes sent out by the Association had been unstamped, they concluded that these were votes for Lackaye, and they were vastly in the majority of all envelopes received.

Meanwhile a minor tragedy was impending behind the locked doors of the tellers' room. Brandon Tynan had an important engagement with which the election threatened seriously to interfere. Tynan was scheduled to be married to Lily Cahill on Wednesday, June 9, and it appeared that he would be at least a day late for his engagement.

In the face of this unfortunate predicament the tellers got in

**New York Morning Telegraph,* June 5, 1920.

touch with both candidates and obtained their consent in writing to a preliminary announcement before the final verification and tabulation of votes. This was conceded by both Emerson and Lackaye, and accordingly on the evening of June 9, a bulletin posted at Equity Headquarters conveyed the information that:

"At a meeting today, June 9, the official tellers, Charles B. Wells, Brandon Tynan and Charles Sindelar reported, Mr. Wells announced, on behalf of all the tellers, that both candidates had agreed in writing to a preliminary announcement of the result of the election, and that the canvass of the votes showed that John Emerson was elected by a decided majority, and that all indications point to the election of the entire regular ticket, and that they hope to report the returns next Wednesday." [11]

Thus Tynan was free to keep his engagement with Miss Cahill, and Equity learned that its new president was John Emerson. There were murmurs of dissent from the Lackaye faction, and Lackaye, it was announced in *The Clipper* of June 9, had conferred with Assistant District Attorney Talley, with a view to legal action over the dual balloting allowed, but the threatened action never materialized.

The reason for that was apparent when the certified report of the tellers was released on June 16 on the return of Brandon Tynan from his wedding trip. Then it was evident that not only had John Emerson and the entire regular ticket been swept into office, but that the margin between the lowest member of the regular slate, Echlin Gayer, with 2,885, and the highest vote polled by any member of the independent nominees, who was Wilton Lackaye, with 914, was in the ratio of three to one. No trickery, or last minute changes at the meeting, could have rolled up a majority of that size, and the idea of legal protest evaporated.[12]

Then it was demonstrated that the apparent preponderance of votes for Lackaye had been largely due to the thriftiness of the Equity membership. Many who had received both the regular and independent tickets had utilized the stamped envelope which accompanied the latter to vote against its sender.

With the subsidence of the emotions stirred by the election,

Equity settled down to its ever recurring problem of a final reckoning with the Producing Managers' Association.

That organization, far from crushed or willing to concede victory permanently to Equity, had taken advantage of Equity's preoccupation with its internal problems to launch a determined and markedly successful drive to lower the number of Equity members in good standing—the real effective strength of the organization.

It was to the forging of a weapon to put a stop to this campaign of attrition that Equity now turned, and the search for which set its face definitely on the long, long trail to Equity Shop.

Chapter XXIII

THE CAMPAIGN OF ATTRITION

The Producing Managers' Association had never accepted the verdict of the strike as final. In the analyses of their defeat it was individual weaknesses or disloyalty in their own ranks they blamed, or the powerful, and to them unexpected, intervention of Equity's Labor allies. The unprecedented ability of the actors to undertake a disciplined and sustained effort was simply a factor to be foreseen and circumvented in advance of 1924.

As a first step to nullify Equity's prestige, the Producing Managers' Association promptly extended to all actors and actresses every advantage won by Equity through the strike. There was nothing achieved by the courage, endurance and sacrifice of Equity members which was not immediately passed on to those who had not lifted a finger to help, to say nothing of those who had actively opposed Equity in the fight. Nor did the initiation fees and dues paid to Equity now obtain anything which was not available to those who would not or did not pay a cent.

There were even distinct disadvantages to Equity membership in that first season following the strike. Actors who had figured prominently in it, or who were insistent on obtaining Equity contracts or conditions, found unexpected difficulties in the way of securing engagements—were occasionally told bluntly that Equity members were not wanted.

Supplementing this direct assault the Producing Managers' Association, through its individual members, set out to build the Actors' Fidelity League into a real organization and make it a rival to Equity in fact as in name. Henry Miller resigned from the P.M.A. to become its president and every effort was made to present it in an attractive light to actors who might drop out of Equity for any reason whatsoever.[1]

Finally, Equity learned from a source so close to the inner councils of the Producing Managers' Association that its authenticity could not be doubted, that the managers had no intention of permitting their productions to be crippled by a walkout of the

Broadway actors as they had been in 1919. For the next campaign they intended to have a crop of capable and tested players recruited from the stock companies of the country planted under cover and signed up on long term, guaranteed strike-proof contracts. Then let Equity call for a walkout: the managers would watch their erstwhile favorites depart without regret, whistle up their reserves; and the rebels, deprived of their livelihood and impotent to harm their managers, might sue for mercy or starve.

These plans were well conceived and were carried out with such fidelity that by July 1, 1920, the delinquency list of the Actors' Equity Association was a matter of real concern to the Council.

It was apparent by that time that unless the increase in delinquencies could be arrested, and that speedily, the number of members in good standing would fall below the level requisite to pay the running expenses of the Association. Such an occurrence could only be circumvented by a drastic curtailment of Equity's activities which might or might not stave off bankruptcy, or by devising a plan which would make it imperative for members to maintain themselves in good standing and induce a regular flow of new members despite the terrorist tactics of the managers.

That plan would have to be a departure from existing methods of discipline which were limited strictly to moral suasion. If a refractory or negligent member was expelled or suspended from Equity for non-payment of dues, for refusing to obey the regulations of his Association, or even for contract jumping, the loss was not his, but Equity's. His prospects of employment were not jeopardized by that act, indeed in some instances were actually improved; while the Association was just one member weaker.

In the face of this threat, which was by the summer of 1920 a very real and menacing thing, the Council went back to its storage warehouse of ideas and unearthed the Policy or Agreement which it had first prepared for use against the United Managers' Protective Association, as far back as 1914.

The kernel of that agreement had been the promise on the part of the signer that: "I further pledge myself and agree that . . . I will not accept employment in, or render services in, any company in which there is employed any actor eligible to be or become a member of this Association who is not such a member."

If this policy could be established and maintained within a reasonably short time new actors coming into the theatre would

find it necessary to join Equity to be eligible to play with its members. Once in they would have to keep themselves in good standing to continue to enjoy that privilege. Non-membership or failure to maintain good standing would result in the loss of that privilege and a consequent restriction to entirely non-Equity companies.

Obviously it would not be possible for Equity to apply that policy to all companies from the beginning. By Clause Fifth of the Basic Agreement with the Producing Managers' Association, Equity had expressly promised not to make Equity membership a condition to employment in the productions of members of the P.M.A. In other words, for the duration of the Basic Agreement, or until June 1, 1924, the P.M.A. was to enjoy the advantages of an open shop.

Yet, although the Producing Managers' Association numbered among its members the most prominent producers in the country, it did not have all of even the first class producers on its rolls, and its members controlled only a fraction of all the theatres in the country. Against all the other managers, save those who belonged to the P.M.A., Equity was free to proceed as it chose.

The old Policy, now christened Equity Shop by Paul Dullzell, was given a preliminary tryout in Chicago about the first of April, 1920. It was declared to be in force in the companies of the so-called "Chicago Managers" (producers who base their operations upon Chicago and send popular priced attractions through the middle west).

More than once Chicago has been the point of departure for a new policy or a testing ground for Equity's experiments. This is partly due to the fact that Chicago is a strong union town, and the center of a populous territory in which union support is considerable.

Further, the Chicago managers are not strongly organized, the experiments affect the livelihood of fewer actors, and the policy receives less publicity in its early stages than it would in New York.

For four weeks Equity Shop was given an intensive test in Chicago and the results were so encouraging that the Council contemplated declaring it in force with the Independent New York Managers, the touring managers and the stock companies, with the beginning of the new theatrical season of 1920-1921.

Then the campaign for the control of the Association intervened, and for the time being all action was paralyzed.

THE TOURING MANAGERS ORGANIZE

Meanwhile the touring managers had become alarmed over the prospect, and about June first, while Equity's internal fight was at its height, one hundred and fourteen managers of such attractions met in New York City and formed the Touring Managers' Association, of which Gus Hill was elected president.

The members of the Touring Managers' Association were mostly concerned with second class companies, and one night stands, playing at a dollar and a half or two dollar top.

Yet it was not a negligible organization, by any means, for it was estimated that its members were planning to send out, during the next season, one hundred and sixty companies, making use of the services of between three and four thousand actors and actresses.[2]

The new Association proceeded, at once, to get in touch with the Actors' Equity Association. After several conferences, on July 29 an Equity general meeting was called in the North Ball Room of the Hotel Astor to hear the proposals made by the Touring Managers.

As outlined to the meeting by Gillmore, the Touring Managers represented that, owing to the competition of motion pictures, the long jumps, and smaller profits in the little towns they played, it would be an impossibility for them to work on the same terms laid down in the Basic Agreement between Equity and the Producing Managers' Association.

So the Touring Managers' Association proposed that it be granted the privileges accorded the Chicago managers, who played at a dollar top, including the right to book ten performances a week without having to pay two-tenths extra salaries—and without being held to that price.

In return for that privilege the Touring Managers offered a number of concessions. They were willing to guarantee a season of thirty weeks, at the end of which they proposed to divide the total number of performances by the number of weeks played, and for all weeks which averaged more than eight they promised to pay extra eighths. The week before Christmas, and Holy

Week, however, were not to be counted unless they were needed to bring the season to thirty weeks.

With those exceptions the Touring Managers asserted their willingness to pay for all nights lost, except for the standard causes of fire, riot, act of God, and the like.

They expressed an intention also, of issuing contracts before the first rehearsal; of cutting the probationary period from ten to seven days; curtailing rehearsals from four weeks to two for dramatic productions, and from five weeks to three in musical productions.

The Touring Managers' Association, finally, offered to guarantee any payments which might be due members of the Actors' Equity Association by any member of the T.M.A.[3]

The Council had considered these concessions but did not follow its ordinary procedure and recommend any course of action to the meeting. Whereupon the meeting, after some discussion, voted to adopt a resolution reading:

"Resolved that the Council be authorized to demand from the one night stand or Touring Managers' Association the same contract as is issued by the Producing Managers' Association."[4]

The Touring Managers' Association was much disgruntled by this reception of its overtures, and in a meeting held on August 6 threats of closing all the productions scheduled by its members for the coming season were freely voiced.

Its president, Gus Hill, announced his intention of staging an immediate retirement to his farm, a course which, he estimated, would throw seven hundred actors out of work. Other managers, he felt sure, would do the same.

To retire rather than to attempt to operate under conditions he considered unfavorable was, of course, Hill's privilege and he was saying no more than Cohan, Belasco and others had said many times.

But when Hill went on to say, as he did, that in the event of a fight over a closed shop, the Actors' Fund of America, of which he was then Secretary, would not extend assistance to actors who were standing out for Equity contracts,* it was something else, and much more serious. For the Actors' Fund of America was,

* *New York Review*, August 7, 1920.

and is, a charity supported in large part by direct contributions from the actors themselves, or by public benefits at which they are the chief attractions.

Now Hill was threatening to allow his private resentments, as a producer, to influence his actions as an officer of the official relief fund of the American theatre.

Despite the threats of a suspension of all activities, and Hill's attempted use of the Actors' Fund as a club over Equity, the Touring Managers' Association realized that it was not in a position to contest Equity's decision, and after a few more conferences between committees representing the two Associations, it was announced on August 15 that the Touring Managers' Association had accepted Equity's terms in full.[5]

THE REFERENDUM ON EQUITY SHOP

Equity Shop was officially called to the attention of the Council of the Association by a petition presented on August 17, to which were signed the names of two hundred and fifty-one members.[6] A meeting to consider the subject of the petition was called in Æolian Hall, September 3.

If the Council had chosen to jam through the Equity Shop Resolution at this meeting, there is little doubt but that it could have done so. But there was some uncertainty in the Council's mind as to whether the Association as a whole was ready for such a policy. And since its success depended so greatly on the understanding of what it entailed from all concerned, and the willingness of the members affected to go through with their part of it, the Council decided on a campaign of education, culminating in a referendum of the entire membership.

The resolution which was passed that day therefore was something of a very different color from Equity Shop. It read:

"Resolved, a majority of the Council being in favor of the Equity Shop to the extent hereinafter suggested, that a Referendum Vote of the members of the Actors' Equity Association is hereby ordered on the question of the Equity Shop being declared with regard to all managers outside of the members of the Producing Managers' Association, the time when said shop shall be in operation and the various classes of managers (outside of the members of the Producing

Managers' Association), and the classes of actors as to whom it shall be invoked to be in the discretion of the Council. Such referendum vote to be taken in such form as the Council may decide." [7]

The campaign of education which was then undertaken involved general meetings of members from New York to Los Angeles, for which Officers and Councillors traveled thousands of miles and spoke scores of times; it included pages of explanation in the *Equity Magazine* and the daily press; and the writing of innumerable letters to persons who advocated or deplored the policy, or desired to know how it would affect them in specific instances.

Nor was it an ordinary, orderly and peaceful campaign of education of the Equity membership alone. Not only the managers directly concerned with the application of the policy, but the Producing Managers' Association, specifically exempt from its workings for another four years, and all those people to whom any union labor policy is anathema were at the same time waging an equally vigorous campaign against it, so that the Equity membership was between two barrages of propaganda.

THE OPPOSITION

Chief among the opponents of Equity Shop, as might have been expected, was the Actors' Fidelity League. This organization had been brought into being to fight "the menace of the closed shop," and it leaped into the breach again with alacrity. Fidelity held meetings, passed resolutions condemning the "closed shop," and wrote protesting letters to the newspapers, alleging that Equity was trying to legislate the Fidelity members out of the theatre for having refused to strike in 1919; and declaring that the actor was an artist whose genius could not be measured to fit a union suit.*

The Producing Managers also contributed their bit to the anti-Equity Shop propaganda. From about the middle of October panicky predictions of a huge theatrical slump which would throw thousands of actors out of work, were circulated.† In making these predictions they were reasonably safe, for 1920 was

* *New York Clipper*, September 1, 1920.
† *New York Herald*, October 16, 1920.

the year of a presidential election, and there is generally a slump in the theatre during the period when the election occupies the center of interest.

Finally both Fidelity and the Producing Managers' Association, emphasizing their essential solidarity on matters of managerial interest, held a joint meeting in John Golden's rehearsal studio, November 29, in which the managers were represented by Marc Klaw, Henry W. Savage, George H. Nicolai and Golden, while the Fidelity delegation included Louis Mann, now reduced to Second Vice President (for George M. Cohan had been named First Vice President when Henry Miller had taken over the reins of government); Ruth Chatterton, Treasurer; Howard Kyle, Secretary; and Holbrook Blinn, Frances Starr, Janet Beecher, Arthur Ashley, Kenyon Bishop, Ina Claire, Marguerite St. John, Arleen Hackett, Curtis Cooksey, and Lionel Braham. Both parties represented agreed that the open shop was necessary to the salvation of the theatre.*

In the campaign which was being waged the opponents of Equity were given every assistance by *Variety*. From the time of the organization of the Association to the Emerson-Lackaye contest *Variety* had been genuinely friendly and helpful to Equity.

But during the period just prior to the election of 1920, *Variety* had espoused Lackaye's cause and had become so bitter in its attacks upon the actions and the motives of the Administration that the Council had barred *Variety's* representatives from the offices of the Association.†

So *Variety* was now an open and caustic enemy of the Administration, though it still maintained that it was a friend of Equity members in general. And, since Equity Shop was an administration measure, *Variety* pounded it from every angle. Incidents which seemed to reflect discredit upon Equity and those who conducted its affairs were played up, and a discreditable interpretation was given to all Equity news.

Last factor in the propaganda against Equity Shop was the feeling which was possessed by many otherwise friendly people that Equity, because it was a trade union, and because its new plan was called a shop of some kind, meant to apply the generally accepted trade union policies of a closed union, with a

* *New York Herald*, November 30, 1920.
† Equity Council Minutes, June 15, 1920.

limited membership and an apprentice class; union hours, possibly limiting rehearsals to eight hours daily; equal wage scales regardless of talent; and a rigid supervision of the selection and casting of plays.

Nor could any amount of explanation or promises convince many who held these beliefs, that although Equity was not asking these things now, it would not demand them as soon as its power was established.

Whatever the motives which prompted the propagandists on both sides the net result was a thorough exposure of the Policy to the light of publicity. The Equity membership, when it came to the referendum provided for, was one of the best informed bodies which ever voted on any policy and its decision was made with its eyes open as to what Equity Shop would entail.

But because of the news that the managers were planning to recruit from the stock companies Equity decided to make a survey of conditions in that field. Berton Churchill made a trip to Chicago in September, and after an intensive examination of stock conditions reported back to the Council on October 8.

The actors in these fields, Churchill reported, numbered approximately eight thousand, of whom only about one-fifth were organized. And most of them felt that the Broadway actors, protected by the Basic Agreement from the hazards of initiating Equity Shop for at least three years more, were passing the buck to the stock and tent actors by this proposed declaration.

And in the midst of these alarums and excursions a practical amalgamation with the Actors' Equity Association was voted by the Chorus Equity Association on August 18, 1920.[8] It retained its Executive Secretary and Dullzell became its Treasurer, but its other Officers and Council were to be those of the Actors' Equity Association from November 1. To all practical intents and purposes the Chorus Equity, though still nominally an independent organization, became a section of the Actors' Equity Association.

Equity had foreseen that as long as the two organizations remained completely independent there was always the possibility, remote, perhaps, but ever present, that a wedge might be driven between the principals' and chorus organizations; and that even if there was not reason for a split either organization might be maneuvered into a false position with regard to the other.

Chapter XXIV

THE WAR AGAINST THE SHUBERTS

At the height of the Equity Shop campaign Equity found it necessary to declare war on the Shuberts. This office, the largest single employer of legitimate players in New York, had not taken seriously the provisions of the Basic Agreement and the various Standard Minimum Contracts it had authorized. Almost from the end of the strike it had indulged in the practice of appending riders nullifying some protection afforded in those documents. Mostly the riders concerned the eight performance a week clause and bound the signer to play nine, and sometimes ten performances a week, without extra compensation, wherever that was "the custom of the house."

For the first few months Equity had attempted to arbitrate those cases individually as they arose, but the Council became convinced in short order that these were not isolated or sporadic instances, but were part of a settled policy of evasion and intimidation by the Shuberts. Thereafter Equity made no more demands of this nature for the time being, but settled back to collect a sufficient amount of documentary evidence to make an absolutely open and shut case when the time came. The Shuberts, however, thought that Equity had been bluffed into acquiescence, and became even bolder in their disregard of the Basic Agreement.

The mine was sprung without warning. On the afternoon of January 12, 1921, Gillmore telephoned to George H. Nicolai, Secretary of the Producing Managers' Association, and asked for a conference with the Association.

"I'm sorry," replied Nicolai, "but that isn't possible. Most of the managers are out of town, and it wouldn't be possible to get together any considerable number of them."

"All right, then, I'm coming over to see you," announced Gillmore as he hung up.

Before his arrival Nicolai, scenting trouble, had managed to

dig up Sam H. Harris, President of the Producing Managers' Association, and Arthur Hopkins, one of its most experienced war horses.

To the trio of managers thus assembled Gillmore declared his intention of preferring charges of contract violation against the Shuberts, and demanding that they be expelled from the Producing Managers' Association. Copies of those charges were even then on the way to every newspaper office in New York City.

Lee Shubert was summoned to the telephone, and for a solid hour he argued against making public the charges, at one point declaring that: "The trouble with Equity is that it doesn't want to be fair." The release, however, had gone—recall was out of the question. A general meeting of the P.M.A. was summoned to hear the charges the next afternoon.

THE EVIDENCE

As a result of the play given that release by the newspapers the next morning the new offices of the Producing Managers' Association at 231 West 45th Street were jammed. Every theatrical office in the city was represented by from one to three persons. Managers stood on chairs, they peered around corners, they filled all the floor space not occupied by the delegation from Equity which had accompanied the charges across Broadway.

It was headed by Frank Gillmore and Dorothy Bryant, as Executive Secretaries of Equity and Chorus Equity Associations, and included Tom Gamble of the American Federation of Musicians; and J. McKinnon, representing the I.A.T.S.E. Hugh Frayne was not present but had been notified of the intended proceedings.[1] Then, formally, Gillmore preferred the charges as released to the newspapers the day before. Signed by Gillmore and Mrs. Bryant, jointly these recited that:

"We charge Messrs. Lee and J. J. Shubert with intentional and continued violation of the Basic Agreement between us of September 6, 1919, and of the individual contracts made thereunder. These violations, in the main, comprise unfair discrimination, failure to give contracts, failure to pay according to contract and dismissal of actors who complain of such failure.

"It seems almost unnecessary to formally state facts support-

ing the charges just made, which are common knowledge in the theatrical profession, and we therefore call your attention at this time only to open, notorious and easily ascertained facts affecting whole companies.

"We wish you to know, however, that we have at hand a large volume of evidence, through complaint and affidavit, covering individual grievances, instances of which are cited."

The complaint then went on to say that in the "Maytime," "Passing Show of 1918" and "Cinderella on Broadway" companies, if contracts were given at all, they required nine performances of the actor with no additional pay; that in "The Passing Show of 1919" the same conditions obtained, with the addition of unlimited and unpaid rehearsals; that in "Sinbad" the contracts had offered a small additional sum, in return for which the regular one-eighth had had to be waived; that in "Floradora," for the road, contracts were not given, or extra pay offered for extra performances, and if the Equity members requested it they were given their notices; that in "The Passing Show of 1921" chorus members were rehearsed more than four weeks without pay, and received no contracts; that in "The Gaieties of 1919," chorus men had been offered $25 a week instead of the Equity minimum, $30; and that Equity members who applied for employment admitting they belonged to Equity were refused jobs, while others applying at the same time saying that they were not in Equity had been taken on. The complaint concluded by saying:

"In further violation of the basic agreement, the Messrs. Shubert have instructed various of their company managers to require members to deny their membership, and if they refused to do so and insisted on Equity contracts, to give them their notice and replace them as soon as possible. This is evidenced by the fact that repeatedly members requesting pay from the company manager have been told by him in substance that if he, the member, insisted it would cost him his job, as he, the manager, had written orders from the office to get rid of actors insisting on Equity requirements.

"It is, perhaps, unnecessary to point out that these conditions affect not only our Associations and their membership, but the members of your Association who are living up to the basic agree-

ment as well. By these methods the Messrs. Shubert get the same work for less money and put out a competitive show more cheaply than can members who live up to the agreement.

"Yours very truly,
"Actors' Equity Association,
"FRANK GILLMORE,
"Executive Secretary.
"Chorus Equity Association,
"DOROTHY BRYANT,
"Executive Secretary." *

The Shuberts were represented by J. J. Shubert, Ed Bloom and William Caryl. They denied, categorically, the issuance of such contracts by their office.

But Gillmore had not come without documentary proof. He produced an original contract, altered in the manner alleged and started toward Sam Harris. As he passed Shubert, the manager reached for the evidence.

"Just a minute," Gillmore said. "This is for your President."

Swiftly Harris conned the contract, noting the riders whose existence had just been denied. Then he passed it down the line where each manager in turn read the evidence which clinched the case against his fellow member. There ensued an embarrassed silence as the document returned to Harris and by him was given back to Gillmore.

Harris cleared his throat. "The Shuberts will be given a week in which to prepare their answer. In the meantime the meeting stands adjourned."

The Equity delegation retired leaving consternation in its wake.

THE SHUBERTS SURRENDER AT DISCRETION

Lee Shubert attempted to make light of the charges when he was sought by newspaper men that night. He characterized them as: "Trivial, inasmuch as they are based on the allegations of a few dinky chorus girls.

"If they had complaints to make why didn't they submit them to the arbitration board as provided for by agreement by the producers? We employ more than a thousand actors and settle

* *Equity Magazine*, February, 1921, page 14.

hundreds of disputes. We don't rush out and give them to the press, yet the Equity collects the complaints of six dinky chorus girls and uses them to allege that we are evading our obligations. I consider this action of the Equity a gross violation of their agreement." *

Despite this defiance the Shuberts realized that the weight of the evidence was against them and availed themselves of a suggestion which had been offered during the meeting at the offices of their Association and, pending the trial of their charges by the Producing Managers' Association, they entered into conferences with Equity looking towards an agreement under which the charges might be withdrawn.

At this critical point when the conferees were just beginning to thrash out the question, the Dramatists' Guild chose to inject itself into the discussion again. In October, 1920, the Guild, then negotiating with the Producing Managers' Association for a standard authors' contract had been invited by Emerson, for Equity, to join the Equity or to obtain a separate charter from the Four A's. This invitation had been declined by the Dramatists, but since that time a committee composed of Augustus Thomas, Gene Buck and Edward Childs Carpenter had been engaged in a study of Equity Shop as it might affect their own organization.

On January 14 a meeting of thirty-one of the approximately one hundred and fifty members of the Dramatists met at the Café Boulevard in New York City to hear the report of this committee. It was an unqualified condemnation of Equity Shop and viewed with alarm its possible application to any branch of the theatre.

If the Dramatists had been seeking an opportunity to damage Equity they could not have delivered their stroke more shrewdly. The Equity Shop referendum was at its height, and Equity had just launched an offensive against the strongest single producer on Broadway. To have such an important and supposedly neutral body as the playwrights pass an adverse judgment on its plans at this moment could not but affect to some extent the votes of its members.

In the face of these discouragements the negotiations with the Shuberts were pushed to a speedy conclusion. In a memorandum

* *New York Morning Telegraph*, January 14, 1921.

dated February 7, 1921, which, it was stipulated, must be posted near the call board of every theatre owned or controlled by the Shuberts, those producers granted every safeguard of the interests of the members of Equity and the Chorus Equity Associations, which had been asked by their representatives.[2]

The Actors' Equity Association is a fighting organization. It never showed that more clearly than by its compaign against the Shuberts at a time when its members were in the throes of making up their minds about Equity Shop. It would have been no more than the part of prudence if Equity had remained strictly on the defensive until after the referendum, and had devoted itself exclusively to putting over its campaign among its own members.

Instead of following that eminently safe and sane course, Equity had boldly taken the offensive against the most powerful theatrical office in the country, and in so doing had risked not only a bitter struggle with the Producing Managers' Association, in case the latter had backed the Shuberts, but the almost certain enmity of all the managers, in any event.

For, whatever the opinion of individual managers with regard to the Shuberts and their managerial practices, they were managers, and Equity by moving against them had served notice on all the others that it meant to insist upon the strict observance of its contracts. And the managers, whatever their personal views of what might be ethical, didn't like this idea, and hoped the Equity membership would bury Equity Shop deeper than Hell, itself.

THE BALLOT ON EQUITY SHOP

Thus, to the last minute of the referendum on this policy the managers, affected and exempt, kept up a drumfire of propaganda against it. On Feburary 9 William Harris, for the Producing Managers' Association announced that the organization was unanimous in its opposition; while on the twenty-first the Touring Managers' Association denounced it as un-American.[3]

So, when the polls were closed at six P.M. on the evening of February 28, the managers were confident that the proposal had been overwhelmingly defeated by the votes of the Equity's own

members, and that one spectre which had haunted them for months would be laid for a long time to come.

Nearly two thousand members of the Association squeezed themselves into the Grand Ball Room of the Hotel Astor on March 6, 1921, to hear the report of Gitz Rice, E. H. Robbins and John Willard, the tellers.

While Equity officers had been sure that the policy would be adopted by a large majority the overwhelming vote in favor of its adoption, 3,398–115,* came as a very great surprise—while the shock to the managers was terrific.

The Council, on March 15, decided to invoke the new policy, beginning with the theatrical season of 1921-1922, in all companies controlled by the New York Independent Managers, the Touring Managers' Association, the Chicago Managers and the stock companies.[4]

Gillmore wrote at once to prominent managers in the classes of companies affected and asked them to meet with representatives of Equity to discuss ways and means of putting Equity Shop in effect with the minimum of inconvenience to all concerned.

A flat defiance was returned by Gus Hill, speaking for the Touring Managers' Association, coupled with the threat that if Equity seriously meant to attempt the imposition of Equity Shop, the Touring Managers' Association would recruit its casts from vaudeville, burlesque, and motion picture actors.[5]

At this point Equity received a request for help from a most unexpected source. When, scarcely two months before, the Dramatists' Guild issued its denunciation of Equity Shop and declared that its position had the endorsement of the Authors' League of America, its parent body, it would have been natural to suppose that such an unfriendly act would hardly prejudice Equity to go out of its way to do a favor for either of the writers' organizations.

Yet, shortly after that had occurred, the Dramatists' Guild, in its fight for a revision of the American Copyright Law which would permit the United States to join the International Copyright Union, ran afoul of the Printing Trades through whose influence the "Manufacturing Clause," the chief obstacle in the way, was maintained in the Law.

* *Equity Magazine,* April, 1921, page 6.

But officers of the International Allied Printing Trades Association, mindful of the recent affront given Equity by the Authors' League, referred the Authors back to Equity for its assent to the change.

It was a galling situation for the Authors, but they put their pride in their pockets, and asked Equity to lend its influence to their plans. The obvious rejoinder would have been to remind the Authors' League of the behavior of the Dramatists' Guild and to have asked how either the Guild or the League could expect favors from Equity after that. But the actors were not desirous of perpetuating any differences between the playwrights and themselves, and felt that the proposed copyright law would be beneficial to all, so Gillmore wrote to Matthew Woll, President of the Printing Trades Association, at Montreal, Canada, expressing Equity's appreciation at the reference of the Dramatists' request to it for approval and informing the Printing Trades Association that if the proposed copyright law met with its approval Equity would not object to it.

There had been considerable nervousness felt by the Independent New York managers as to how Equity meant to proceed against their productions. Gillmore invited a number of them to Equity Headquarters on March 14, and answered specific questions for the better part of the afternoon. He promised definitely that Equity would not limit its membership or attempt to dictate the casting of plays under Equity Shop, two fears which had loomed largest in the minds of these managers since the policy had been announced.[6]

The reassurance of the other independents was evidenced when the first first-class production scheduled under Equity Shop conditions, "June Love," was announced from the office of Sherman Brown, as opening in Atlantic City on April 11.[7]

THE EQUITY SHOP REGULATIONS

The first instructions to the Equity membership as to Equity Shop, the classes of productions which would come under it, and the regulations governing its usage were issued by Frank Gillmore on April 15.

The letter also contained a list of the members of the Produc-

ing Managers' Association, as known to Equity at that time.

The Touring Managers' Association announced a meeting to raise five hundred thousand dollars to resist the application of Equity Shop to its attractions.*

Two weeks after that *Variety* reported that the Producing Managers' Association had determined to raise three million dollars for that purpose, and that the method of providing those funds would be an annual initiation fee of $500 for each member, and the contribution of $25 a week for each production playing under the control of any member. There was some discussion also as to the advisability of establishing hotel agencies selling tickets direct instead of through the established brokers, but that proposal never got beyond the stage of talk.†

The Chorus Equity Association's referendum on Equity Shop, which had been proceeding with far less publicity than that given to the Actors' Equity Association's, was now closed, and at a general meeting on May 3 at the Hotel Astor the membership was announced to have favored its adoption by the almost unanimous verdict of 1,823–1.‡

This unanimity had little effect upon the governors of the Touring Managers' Association. On the fourteenth of May it published in the *Review* a letter which was being sent to all actors who had answered the advertisements of new productions by its members in the trade papers.

"We are not engaging anybody at present," the letter told each applicant for a job, "and unless conditions affecting theatrical business are adjusted on a new basis we feel that it would be folly to invest an additional dollar.

"We have hopes, however, that the various unions interested will awaken to the fact that the limit has been passed and that in order to 'live' they must also 'let live.'

"Just as soon as conditions permit activity, you will hear from us.

"Very truly,

"TOURING MANAGERS' ASSOCIATION."

This was an obvious bid for a reply from the actors addressed advising the Touring Managers' Association that the applicant had no intention of insisting on Equity conditions.

* *Variety*, April 8, 1921.
† *Ibid.*, April 22, 1921.
‡ *Equity Magazine*, May, 1921, page 13.

As the date for the institution of Equity Shop approached, George M. Cohan apparently became convinced that Equity meant what it had said and announced his retirement from the theatre. His proclamation evoked an echoing murmur from David Belasco that: "There may be others. I will not submit to the closed shop." *

Cohan went on through with his retirement as scheduled. One by one he closed the road companies of his various successes, allowing Equity to learn of each closing through the newspapers. At last there were left only "The Tavern," in which he was appearing in person at the Hudson Theatre, New York, and "The O'Brien Girl" in Boston.

Finally, on June 25, he closed the former. The Hudson Theatre was crowded with his friends; there were gifts and curtain speeches—and Cohan had made his last appearance on any stage. Only "The O'Brien Girl" stood between him and tota¹ eclipse.†

* *New York Morning Telegraph,* June 10, 1921.
† *New York Sun,* June 28, 1921.

Chapter XXV

THE P.M.A. CHALLENGES EQUITY SHOP

During that summer while Gillmore was attending the convention of the American Federation of Labor storm clouds which had long been forming burst suddenly on Equity. The Producing Managers' Association, when it had recovered from the shock occasioned by the overwhelming passage of the Equity Shop referendum, had begun to cast about for means to circumvent its application to the companies of its members.

At first, as Equity had been informed, it sought to sign up a number of promising stock actors and actresses on long term contracts, for development under the watchful eye of the managers during the three years of life still remaining to the Basic Agreement.

To its consternation it found that Equity's organizers had made such progress there that it was impossible to count on any considerable assistance from stock.

Although the Producing Managers' Association's success in legal contests during the strike had not been marked, it decided to renew the fight from that angle.

Accordingly, on June 15, 1921, Sam H. Harris, as President of the Producing Managers' Association, formally notified the Actors' Equity Association that:

"The Producing Managers' Association desires to call the attention of the Actors' Equity Association to clause 6 of the Basic Agreement entered into between the Actors' Equity Association and the Producing Managers' Association on September 6, 1919, which reads as follows:

" '6. The Equity Association will not force or coerce directly or indirectly, or attempt to force or coerce directly or indirectly, any person or persons not a member or members of such Association to become a member or members thereof, and will order its members or any particular member under penalty of discipline not to force or coerce directly or indirectly, any such person or persons to become such member or members.'

"In the opinion of the Producing Managers' Association the present efforts of the Actors' Equity Association to enforce the so-called Equity Shop, thereby indirectly coercing actors not members of the Actors' Equity Association, is in direct violation of clause 6 of the Basic Agreement. Therefore the Producing Managers' Association asks for arbitration as provided for by said Agreement."

Equity, however, declined to be drawn into the arbitration minus the services of its Executive Secretary, and although the wires between New York and Los Angeles were kept hot with communications, there was nothing for the Producing Managers' Association to do but to wait his return.

They were not exactly idle, however. About the middle of July rumors began to circulate, some of which were attributed to John Meehan, former stage director for the almost retired George M. Cohan, and now the baby member of the P.M.A., that a considerable number of Equity members were preparing to break away from their Association because of its uncompromising stand on Equity Shop, and form an Independent organization under the leadership of Cohan.

This new actors' body would be modeled along the lines of the Actors' Equity Association, but without labor affiliations or the Equity Shop trimmings to whose presence these actors were declared to be so opposed.[1]

The Morning Telegraph tried to run down the rumor, and discover just who was going to make this break, but no names were forthcoming.[2] But even after the *Telegraph* published its findings the rumors continued to circulate.

Equity was busy strengthening its defenses also. Turner and an augmented legal staff went digging into the legal phases of the controversy, with particular regard to the latest definitions of the term "coercion" as applied to labor disputes. And, regardless of the strictures of the P.M.A., Equity went ahead with its preparations to enforce a complete Equity Shop in those classes of companies against which it had been declared in force by the Council.

Then Gillmore returned from the Coast and almost on his heels there came a letter in which, in the manner of the code duello, Equity was informed:

"We beg to advise you that Mr. Hopkins will be prepared to meet Mr. Gillmore Monday, August 1st, at 1 P.M., at any place suitable to him. Mr. Hopkins will be at the Plymouth Theatre at 12:30 Monday, awaiting a telephone call from Mr. Gillmore."

THE ARBITRATION

When the two principals met on Monday several names were discussed. The ordinary procedure in a theatrical arbitration is to find an umpire who is at once conversant with the problems involved, and is yet a neutral. In this particular instance however the question was concerned solely with the construction of the term "coercion" and legal authority and neutrality were the prime factors.

After ten days or so of discussion Federal Judge Julian W. Mack, regularly assigned to the Illinois District, but this summer doing special duty in New York, was found acceptable to both sides.

Judge Mack accepted the invitation and requested the arbitrators to meet him at his home in Port Chester on August 17. In addition to the respective arbitrators Turner accompanied Gillmore, while Joseph P. Bickerton Jr., Counsel for the Producing Managers' Association, supported Hopkins.

The case of the Producing Managers' Association as developed by Hopkins hinged upon Clauses 5 and 6 of the Basic Agreement, which read:

"5. Neither the Equity Association nor any member thereof will refuse to perform services for any producer because of the presence in the cast or production of a person or persons not a member or members of the Equity Association or the Chorus Association or of a person or persons a member or members of any other Association or Organization.

"6. The Equity Association will not force or coerce directly or indirectly, or attempt to force or coerce directly or indirectly any person or persons not a member or members of such Association to become a member or members thereof, and will order its members or any particular member under penalty of discipline not to force or coerce directly or indirectly, any such person or persons to become such member or members."

Hopkins' contention was that when the Agreement, in the first of the quoted paragraphs said "any Producer" it meant just that. In effect Equity had promised, whether or not it had intended to, not to institute a restriction as to with whom its members could work against any manager in the country during the life of the Basic Agreement.*

Further than that, Hopkins argued that the institution of Equity Shop against non-members of the Producing Managers' Association was affecting the latter organization as though it had been declared against it. For actors and actresses, even when engaged in companies controlled by members of the Producing Managers' Association, and not required to belong to the Actors' Equity Association, looking ahead to possible engagements with Independent Managers, felt it necessary to join Equity, and so had been coerced into becoming members of the Association.†

The members of the Producing Managers' Association had also suffered loss, according to Hopkins, because of the forced retirement of one prominent Independent producing manager through the projected enforcement of Equity Shop (presumably Hopkins referred to Cohan, although the manager was not further identified), and the threatened retirement of others menaced the profits of members of the P.M.A. who were mutually interested with these Independents in contracts or bookings; and that this "Independent Manager" was restricted by his membership in another Association (the Actors' Fidelity League).‡

The jurisdiction of the Basic Agreement, Gillmore maintained in his reply for Equity, was defined in the opening paragraph of the Agreement which read:

"Agreement between the Producing Managers' Association, an incorporated association existing under the laws of the State of New York (hereinafter termed the 'Producers' Association'), by and on behalf of itself and all its present and future individual members and producing corporations, co-partnerships, associations, individuals and concerns of whatever character which said individual members or any of them control, manage or direct, parties of the first part (hereinafter termed the 'Producers'), and Actors' Equity Association an unincorporated Association existing under the laws of the

* Decision of Judge Julian W. Mack, page 2.
† *Ibid.*, page 4.
‡ *Ibid.*, page 5.

State of New York (hereinafter termed the 'Equity Association'), by and on behalf of itself and all its present and future individual members (hereinafter collectively termed the 'Equity')."

The understanding that this limited the scope of the Agreement to its two principals was shared by Weber, Frayne, and other labor officials who were contributory signers to the Agreement, Gillmore declared.*

The further fact that the Producing Managers' Association, by figures presented to the umpire, controlled only about one-fifth of the total productions made each year, lent further color to the Equity contention that Equity would not bind itself to refrain from policies it might deem vital to its preservation, through its agreement with this fraction which would not help Equity in obtaining better conditions from the other four-fifths of the managers.†

Gillmore insisted that the independent managers could obtain exemption from Equity Shop by joining the P.M.A., whose membership was not limited in the Basic Agreement, and so become responsible for their contractual obligations with that organization, as well as sharing its privileges, and that Equity would welcome such a move, since it would furnish the protection Equity felt it needed, and which was otherwise possible only through Equity Shop.‡

The subject of force and coercion was then taken up, and Gillmore asserted that Equity had sought only to persuade non-members to join, a right long granted to all unions.§

With a final analysis of conditions such as strandings, fraudulent bankruptcies, and oppression of small actors on the road, many hundreds of miles from home, which Equity Shop had been designed to meet, Gillmore rested his case. Both arbitrators presented their briefs to the umpire, and withdrew with their counsel while Judge Mack addressed himself to the task of digesting the claims made by both sides, and preparing his award.

There was no let-up in the warfare on Equity in the interim. The Touring Managers' Association issued announcements that

* Brief Submitted by Frank Gillmore, page 1.
† *Ibid.*, page 2.
‡ *Ibid.*, page 3.
§ *Ibid.*, page 7.

it was going right ahead recruiting non-Equity casts, and finding no trouble in getting the actors it needed; the Columbia and American Burlesque Wheels withdrew from the United Managers' Protective Association, in order to fight the stage hands' and musicians' unions; and the Producing Managers' Association released the news that Brock Pemberton and Sargent Aborn, independent managers, had been elected to the P.M.A. while George M. Gatts, Clay Lambert and Robert Campbell of the Touring Managers' Association, had resigned to climb aboard the P.M.A. bandwagon.

About the middle of the week which followed, a rumor was circulated which brought the newspaper men over to Equity Headquarters on the run. Judge Mack had handed down his decision, it ran; a copy of it was even then in the safe of the Producing Managers' Association.

Outwardly, Gillmore was not disturbed. "I won't believe that a jurist of Judge Mack's standing would render a decision without furnishing a copy of it to both sides," he told the reporters. But, well, *had* he—or had something happened to the copy which Equity should have received?

And then there was the general meeting which had been called for Sunday afternoon, August 28, in the full expectation that by that time there would be a decision to announce. But the days were passing and there was no decision, nor any intimation as to when one might be expected.

JUDGE MACK'S DECISION

In the hope that it might come down on Saturday Gillmore and Turner were waiting in the Equity office. But the morning did not bring it, and they were on the point of departing for a baseball game when Judge Mack's messenger entered with the document.

Now this decision was one of the most important in all of Equity's history. It affected not only Equity's immediate campaign but the entire strategy for several years ahead. Any novel reader would have known what to do, but apparently it never occurred to these two that they might turn to the end and read what Judge Mack had written on the last page.

They sat down across the desk from each other and Turner began to read at the beginning of page one. As the reading progressed Gillmore suddenly interrupted the reading to say of the phrase Turner had just read: "Why, that's in our favor!"

And again, a few pages later, and with more certainty in his voice: "I think we've won!"

But it was not until the final page was turned that they realized the full import of Judge Mack's decision, for he had concluded his unqualified acceptance of Equity's position by saying:

"On all the circumstances in the case I have reached the conclusion that the Equity Shop plan and the resolutions and instructions of the Actors' Equity Association with respect to this plan, are not in violation of the agreement between the Actors' Equity Association and the Producing Managers' Association, dated September 6th, 1919, and are not in violation of law or sound public policy." [3]

There was a tremendous outpouring for the meeting called to hear Judge Mack's decision in the Grand Ball Room of the Hotel Astor on Sunday, August 28. Although the real magnitude of the arbitration was not generally appreciated outside of the Council of the Association, grapevine rumors had conveyed the information that something big was stirring.

More than twenty-five hundred members festooned themselves around the walls and balconies, as well as filling every available foot of floor space, to hear Judge Mack's award read by Emerson.

The reception of the announcement of victory, enthusiastic and colorful though it was, was not the great sensation of the meeting. At the conclusion of the reading, and while the demonstration was still at its height, Grant Stewart climbed to his feet, a folded newspaper in each hand. When he had obtained recognition from the chair:

"Mr. President," the room was quiet now, "the Officers and Council of the Association had hoped to be able to make the first announcement of this decision to the members here this afternoon.

"But because of the importance of this decision, and having acquired a certain amount of wisdom by bitter experience, we watched the papers closely last night. And it was well that we did, for when, about half past eleven we saw a copy of the first

edition of the *New York Morning Telegraph* we found an announcement on the front page, that the managers had won the arbitration before Judge Mack."

There were hisses and murmurs of anger in the hall, for the *Telegraph* had been active in the support of the managers throughout all of Equity's fights. But Stewart held up his hand:

"Wait a minute," he cried. "We had Mr. Creelman, who handles our publicity, go around to the *Telegraph* with a signed copy of the award. He reported that the *Telegraph* had acted upon an official notification from the Producing Managers' Association (Creelman was told that the notification came from Sam Harris), and so the newspaper had printed the news in good faith.

"Moreover, when they saw Judge Mack's signature, and read the decision, they did not hesitate to rectify their mistake. The presses were stopped and the whole front page of the *Telegraph* was torn up to print the correct version of the award." *

The hisses were turned to cheers. Since that time the *New York Morning Telegraph* has been generally fair to the Actors' Equity Association and has given space to Equity news releases.

* *Equity Magazine*, September, 1921, page 6.

Chapter XXVI

EQUITY SHOP'S FIRST TEST

The first real test of the Equity Shop policy developed at once. It was a heritage bequeathed by Cohan in his exodus from the theatre. The enforcement of the Equity Shop ruling had been passed by the Council on March 15. An announcement of the policy, and of the classes of managers against which it would be invoked, had been given to the Independent Managers' before the Equity members were informed by public announcement, and each manager was asked for a list of the players then under run-of-the-play contracts which might tie them up beyond September first, the date on which the policy would become effective.

In the interim Cohan had approached four of his principals of "The O'Brien Girl" cast, Andrew Tombes, Elizabeth Hines, Ada May Weeks and Georgia Caine, and offered them run-of-the-play contracts which they, in perfect good faith, signed. Before Cohan could complete the round up of his "O'Brien Girl," Equity had warned the other members, and there were no more run-of-the-play contracts issued to that cast. Nevertheless, Cohan felt that by tying up this quartet he was in a position to defy successfully the Equity Shop edict.[1]

As soon as the Mack decision was handed down the Equity members of "The O'Brien Girl" company were notified by their Association that unless Cohan accepted the Equity Shop ruling and made his company one hundred per cent Equity from September first, Equity expected each of them to give in his two weeks' notice.

But Cohan and his manager, J. J. Rosenthal, saved them that trouble. Failing in an attempt to persuade these members to stick with the show despite the ruling, each principal who held a Standard Minimum Contract was given his notice.

The chorus of the play was then lined up on the stage, and was informed by Julian Mitchell, the director, that the play was going to Chicago for what would probably be a long run, but that Cohan had no intention of making his company an Equity affair.

"It's no use for me to rehearse those who don't intend to go to Chicago and sign the Cohan contracts," Mitchell declared. "Therefore, will members of the chorus who will sign the Cohan contracts walk down to the footlights?"

There was only an instant's hesitation and then the entire chorus, with one exception, walked—out of the theatre. That one exception was not an Equity member.* Nevertheless, by putting Finita de Soria in the place lately occupied by Fritzi Scheff and Frank Shea into the vacancy left by James Marlowe,[2] and recruiting an entirely new chorus, "The O'Brien Girl" kept going, although, instead of moving at once to Chicago at the close of its Boston engagement, September 3, "The O'Brien Girl" played for several weeks around New England to shake the cast together again.

The question as to how the four run of the play contracts should be construed was submitted to arbitration on October 20. Equity had little expectation that these contracts would be held illegal, for it was believed that Andrew Tombes, Elizabeth Hines, Ada May Weeks and Georgia Caine had acted in good faith in signing them; but it could not afford to seem to ignore the first test case involving the new policy.

The arbitrators were Paul Dullzell, for Equity; Alfred W. McCann, of the *New York Evening Globe,* for Cohan; and Augustus Thomas, Umpire. The issue was restricted to the validity of the contracts and on that technicality it was decided that the players were bound to continue in their parts during the run of "The O'Brien Girl." [3]

So sure had Cohan been that the decision would be in his favor that the day before it was held, on October 19, he sailed for England to transfer all his producing activities to London.[4]

It had been expected that there would be a rush on the part of independent managers and members of the Touring Managers' Association to join the Producing Managers' Association, in order to evade the Equity Shop. But the high initiation fee and the assessment of $25 a week for each company operating, which the Producing Managers' Association had instituted to create a war chest, had combined to discourage applications from the lesser producing managers.

* *Boston Post,* August 20, 1921.

Accordingly the *New York Review* announced the creation of new classifications with smaller dues and lower initiation fees for the specific purpose of bringing most of the Touring Managers into the fold, and drawing the sting from Equity Shop.[5]

Nevertheless, in the first three months of the application of Equity's new policy only six managements availed themselves of this cut rate bargain. Reviewing the attempts to evade Equity Shop which had been encountered in that time Emerson informed a general meeting of the Association held in the Hotel Commodore, New York City, on Sunday, December 11, that only Edmund and Max Plohn, Robert Campbell, Leffler and Bratton, Philip Klein and Clay Lambert had resigned from the Touring Managers' Association to join the Producing Managers' Association, while Jessie Bonstelle had been the only manager of a stock company to attempt a like course.

In those three months just three non-Equity companies among first-class productions had sought to operate in defiance of Equity Shop. "Out of our entire membership," said Emerson, "how many deserters do you think we have been able to locate. Exactly seventeen—less than one-tenth of one per cent. And yet we were so solemnly warned that the Equity Shop Policy would surely disrupt our organization.

"It might interest you to know that we have compiled a list of members of the Actors' Fidelity League who have seen the error of their ways and have resigned from that organization and have come over to Equity," Emerson continued. "Since the strike how many do you think have come over? Two hundred and thirty-one!" *

There was, however, no let-up in the campaign against Equity Shop, or in attempts to evade its application. John L. Coleman, Secretary of the Touring Managers' Association, which was still maintaining desultory rear guard actions, announced that the road was nearly done for; and that not more than ten per cent of the companies which usually were on tour at this time of year were operating.

"The last week in November, which should see the road business in full swing," he said, "is in almost hopeless condition in so far as concerns the addition of any touring companies to those

* *Equity Magazine*, January, 1922, page 4.

which evaded Equity Shop and got going by hiring only non-Equity actors. Few one night and two night stand shows are out and there is practically no chance of any new ones starting at this stage of the season."

And then he added: "Equity Shop was the original cause in the delay in the start in the touring season, but that cause has been entirely overshadowed by the adverse business conditions which these shows on the road are meeting." [6]

ZIEGFELD CHALLENGES THE EIGHT PERFORMANCE CLAUSE

Florenz Ziegfeld launched an individual assault on the eight performance clause of the standard contracts. The producer of "The Follies" had always been committed to the policy of paying more than the minimum salaries required by Equity to his chorus, of which institution he was justly proud.

For the purpose of getting around the eight performance clause Ziegfeld this year inserted in the contract the minimum wages permitted by Equity, but made it up to his girls by paying an additional bonus of $10 a week.

During the New York run of the piece there were no extra performances and hence no general knowledge of what that meant. But when "The Follies," on its tour, played Pittsburgh during the last week in November, an extra performance was ordered. The chorus expected to be paid for it, but its members were told that this was taken care of by the bonus, and that they need not expect any more money than usual.

An appeal was taken to Equity, and two weeks later, while "The Follies" was in Cleveland, an arbitration awarded the sum demanded to the chorus. Ziegfeld countered with a demand that the chorus accept a ten per cent reduction to take up any of the extra performances which might be claimed under the award.

Only two of the girls, Bessie Poole (also known as Elizabeth Chatterton), and Ruth Andrews, refused to meet these terms, and their two weeks' notices were handed them at once. Miss Andrews was content to let it go at that, but Miss Chatterton fought back, and investigations by three Equity representatives sustained her contention that she had been let out solely because of her insistence on Equity conditions.

Ziegfeld backed up his company manager, Ed. Rosenbaum, Jr., and waited for Equity's next move. It didn't come immediately, and for those few days Ziegfeld may well have thought he had backed Equity right out of the picture.

But "The Follies" was in Detroit that week, and Detroit is notoriously an open shop town. The automobile industry has taken good care that this should be so. And it was the week before Christmas, generally recognized as one of the leaner weeks of the season. Equity sat back, and laid its plans with care.

So anxious was Gillmore to prevent a leak, when the time came, that he had prepared a secret code covering all the possibilities, by means of which he could communicate with Dare, in Chicago, and indicate any degree of action desired.

Then "The Follies" moved to Chicago, to open at the Colonial Theatre on Christmas night. That was the time to deliver the blow. And Gillmore couldn't find his code. It had been filed away in a good, safe place, and all the office staff was gone. There was nothing for it now but to send the message straight and hope that the telegraph company would not let the message or its purport get out in time to warn the managament.

He need not have worried. It was a complete surprise when Dare, that night, walked back stage of the theatre and notified the principals and chorus of "The Follies" that unless the extra eighths awarded the chorus were paid at once, and Miss Chatterton restored to her place immediately, the curtain would not go up.

In this ultimatum Dare was backed by W. C. Fields, Fannie Brice, Raymond Hitchcock, Ray Dooley and others, and the actors were, in turn, supported by the stage hands and musicians through their representatives.

The Colonial Theatre was crowded and even standing room was at a premium. There was $4,500 in the house, and more than sixty thousand dollars in advance sales had been booked; and so, at the end of a half hour's argument and recrimination, Rosenbaum signed the agreement which had been prepared for him, and the show went on.*

Ziegfeld, in New York at the time, was furious when he heard what had happened, and announced immediately his intention of

* *Equity Magazine*, January, 1922, page 9.

retiring from the theatre in 1924, upon the expiration of the Basic Agreement, and following George M. Cohan to London, where he would be associated with George Grossmith and J. A. E. Malone.[7]

The newspapers were interested in this announcement—the propensities of producing managers for this method of saying "Is that so?" were not so well known at that time—and the *New York Sun* sent a reporter around to find out how general that sentiment was among the remainder of the producing managers. The report of that investigation in the *Sun* indicated that he would not enjoy the company of many of his fellows of the New York stage in that self-imposed exile.[8]

THE DRIVE FOR CENSORSHIP

The season of 1921-1922 witnessed the production of an unusually large number of suggestive plays. For several seasons past there had been an increase in presentations of this nature, as their producers had found sufficient response from a section of the public to make them profitable. In this season there was a rush to see which could go furthest and still remain safe. Probably the greatest notoriety was achieved by "The Demi-Virgin," a play of the motion picture colony of Los Angeles by Avery Hopwood, which was produced by A. H. Woods.

Protests against this production induced John F. Gilchrist, Commissioner of Licenses of New York City, to order its withdrawal on pain of forfeit of the license of the Eltinge Theatre, in which it was playing. Woods applied to the courts for an injunction to prevent such a forfeiture, and in a long drawn legal action succeeded in maintaining his point, that the Commissioner of Licenses had exceeded his authority in issuing the order.

During the court skirmishes, however, Woods came to believe that certain of his brother managers in the Producing Managers' Association were not giving him the support to which he felt he was entitled, and, in fact, were attempting to boost their own wares at the expense of "The Demi-Virgin."

At a meeting of the Association on December 7, Woods tendered his resignation, and the next day, when asked how he felt

about being thus suddenly exposed to Equity Shop, he was quoted as saying:

"I have always been in favor of the Actors' Equity Association. If I'd had my way there would never had been any actors' strike." *

Although Woods reconsidered his resignation ten days later, his announcement indicated that the Producing Managers' Association was not a united body, and that beneath the cloak of official uniformity there were individual managers who were friendly to Equity, who would not fly from the theatre because of the prospects of Equity Shop.

But "The Demi-Virgin" case had other and more serious aspects. Its progress through the courts and the prominence given the other suggestive productions of the season, aroused a widespread and vigorous demand for a censorship of the legitimate theatre, such as had been imposed in New York State some two years before on motion picture productions.

Equity has always hated censorship of any kind, but most of all it dislikes political censorship. It was and is the feeling of Equity that political censorship would entrust the art of the theatre to persons without any love for the theatre, without experience in its problems, or indeed any particular interest in the theatre, save as their jobs might be affected. There was also the fear that if this system were installed, many cheap and meretricious productions might slip through the official net, while fine and worthwhile plays, because of their subject matter and regardless of the dignity or artistry of their handling, might be barred. Nevertheless, the signs all pointed to a successful crusade for censorship, and several bills setting it up in one form or another were introduced in the New York State Legislature.

In this crisis Equity took counsel with the other factors of the theatre, the managers, the authors, and various welfare agencies, who, however heartily they might dislike each other individually, were all equally and adversely affected by this measure, to devise a back fire which might head off censorship.

The first meeting of actors and authors was held on December 24, 1921. It drew up a platform, signed by John Emerson for Equity, Owen Davis, President of the American Dramatists, and

* *New York Tribune*, December 8, 1921.

Jesse Lynch Williams, President of the Authors' League, which proclaimed:

"The Authors' League of America claims and holds sacred the right of the dramatist to deal sincerely with any subject of dramatic value, but it joins with all persons who regard the theatre with esteem and affection in deploring resort to salacity and vulgarity with no object other than private profit.

"The Dramatists' Guild is convinced that the distinction between these two aims is always obvious. Consequently it holds professional censorship to be unnecessary, as its workings, with respect to motion pictures here and to drama abroad, have proved to be undiscriminating, destructive and inimical to the finest and most sincere in drama and literature.

"Believing that authors themselves are best fitted by instinct, training and experience to judge the propriety of their material and to uphold the honor and dignity of their calling, and viewing with regret and alarm the conditions set forth above, the Authors' League of America and the Actors' Equity Association have joined in the fight against these evil conditions and in order to gather the highest measure of strength and real effectiveness, an invitation to cooperate has been sent to the Producing Managers' Association and to the heads of those organizations—civil and religious—that have a clean theatre as an objective. With such a combination, including every force concerned with the problem, the best of results may be expected in all confidence." [9]

THE CITIZENS' PLAY JURY

The negotiations for an unofficial censorship culminated in the announcement of the program of the Committee Opposed to Political Censorship, on March 10, 1922.

The program provided, in brief, for the creation of a jury of intelligent, impartial citizens, not connected with either the stage or a reform movement, which would be available to sit in judgment upon any play of which complaint might be made either to the police or the District Attorney.

Upon the receipt of a sufficient number of complaints the city authorities would draw, by the method used for selecting a sheriff's jury, a jury of twelve from the panel of three hundred or more prepared in advance for that contingency.

The members of the jury would be notified individually of their assignment and would be asked to attend the play in question, as individuals, in the next few days. On a given date, ten days or two weeks later, the jury would meet at the District Attorney's office, and ballot on the play.

Three courses would be open to any play jury. It might either absolve the play of any injury to public morals, though good taste, obviously, could not be considered in any such judgment. It might, on the other hand, order its withdrawal, by a vote of at least nine to three. Or it might adopt a middle course, and suggest certain changes, by complying with which the play might be allowed to continue.

The power to enforce these judgments was to reside in the organizations which were in the conference. The managers, for instance, promised to abide by any decisions a jury might make, if the civic authorities would also accept them. The authors also declared their willingness to accept any suggestions made by play juries, without recourse to the law, to save a condemned production. The actors, through Equity, announced their intention of writing into the next contract to be negotiated permission to withdraw from any play upon which the Citizens' Play Jury had turned down its thumbs, without prejudice to their contracts. The religious and reform organizations agreed to accept the verdict of the Play Jury as final, and not to seek recourse through the courts, either.[10]

THE MOVIES DRAFT WILL HAYS

But the motion picture industry still lived in the shadow of its past and was not inclined to trust its future to any such untried and hence uncertain protection from that national censorship of its products which loomed so terrifyingly near and distinct. In this dark hour it preferred to follow the example of organized baseball, which, beset by scandal and a threatened loss of public confidence, following the exposures of bribery and corruption in the World's Series between Cincinnati of the National League and Chicago of the American League in the fall of 1919, had called in Federal Judge Kenesaw Mountain Landis, had made him High Commissioner at a large salary, and so had utilized the prestige of his name and his reputation for inflexible honesty

to restore confidence in the game itself. The notable success of that attempt was not lost on the motion picture producers and exhibitors.

In casting about for such a figure the attention of the motion picture industry was drawn to Will H. Hays of Indiana, at that moment occupying no less office than that of Postmaster General of the United States.

Hays had not attained to that office through long and diligent labor in the science of delivering mail for the Government. Until the election of Warren G. Harding as President of the United States Hays had been no more than a casual patron of the government post office. But he had been a successful business man whose avocation had been politics. And his long and creditable political career had been crowned when, as Chairman of the Republican National Committee, he was given credit for the landslide which had swept Harding into office by the largest majority hitherto attained by any candidate for the Presidency of the nation.

This political ability was further enhanced for the purpose of the present situation by the fact that Hays was also a conspicuous member of the Presbyterian Church, an elder in that organization and had led a blameless personal life.

Altogether Hays seemed made to order to give respectability to the motion pictures, and to offer a guarantee for their future conduct, which could not but have weight with legislators considering the question of censorship of motion pictures.

The negotiations between Hays and those entrusted with persuading him to play David to the Goliath of Censorship culminated at the Hotel Astor on the night of March 16, at which it was announced that a new organization, the Motion Picture Producers and Distributors of America, Inc., had been formed and that Hays had accepted the chairmanship of that body.

Before eleven hundred men and women, representing all angles of the motion picture game, local and national politics, organized labor, and the press, Hays publicly assumed responsibility for the future conduct of the industry. According to the *New York Times* he said:

"The motion picture industry accepts the challenge in the demand of the American public for the highest quality of art and interest in

its entertainment. The industry accepts the challenge in the demand of the American youth that its pictures shall give to them the right kind of entertainment and instruction. We accept the challenge in the righteous demand of the American mother that the entertainment and amusement of that youth be worthy of their value as the most potent factor in the country's future.

"By our opportunities are our responsibilities measured. From him to whom much is given much is required. The potentialities of the motion picture as a source of amusement, which is necessary, and as a moral influence and educational factor are limitless. If this is so, and it is undeniable, then just as that opportunity is great, so in like measure is your responsibility.

"That responsibility I accept for the motion picture industry right now. Our association is dedicated to the aid of the industry and the discharge of these obligations, and to that I am dedicating my life and my best years. It is a task that commands the best efforts of everyone. With an appreciation of this industry's importance in the business world and a full knowledge of its great future, yet in that spirit of humility which recognizes difficulties and limitations, this association takes up its work in the confidence born of the knowledge of its own earnest purpose, and with the conviction that we will have the sympathy and coöperation of all those connected in any way within the industry itself and the coöperation and sympathy of the public whose servant the industry is." *

That unequivocal pledge and the personality of its maker had the effect its sponsors intended. By that speech Hays averted a national censorship of motion pictures, and by that act he became a factor in the motion picture situation with which Equity has had to reckon increasingly.

NOTICE AS TO EQUITY'S INTENTIONS IN 1924

Of major interest and importance to everyone in the theatre was the notice issued by Equity that no contracts were to be signed for services beyond June 1, 1924. Coincident with the extension of the Equity Shop Policy to all tent, repertoire and tabloid shows, these measures, the former especially, were widely and correctly interpreted as a warning that Equity also intended to extend the Equity Shop Policy to the Producing Managers' Association, and did not contemplate having its biggest guns

* *New York Times*, March 17, 1922.

spiked with long term contracts which would not even permit them to fire themselves.[11]

From April 8, 1922, Equity Headquarters furnished stickers or riders which were to be attached to all contracts signed with members of the Producing Managers' Association, and which read:

"Should on or before May 31st, 1924, the Actors' Equity Association, by certificate of its authorized officer, certify that no agreement has been entered into between it and the Producing Managers' Association in place of the agreement of September 6th, 1919, the actor may, until such new agreement is entered into and until that fact is certified to by the Actors' Equity Association in the manner aforesaid, suspend the operation of this contract, and during such suspension the actor need not perform any service hereunder and on and after June 1, 1924, any new conditions agreed upon between said Associations shall apply to and be a part of this contract."

A notification of the resolution of the Council with regard to the enforcement of this provision was soon made a standing order with the *Equity Magazine.*

In mid-April the Committee Opposed to Political Censorship had gotten as far as the nomination of a panel of jurors from which the individual juries would be chosen. But it was a slow, wearisome task, for each of the names proposed had to be acceptable to all the diverse groups involved, and to the city authorities as well. Each prospective person, moreover, had to be invited to serve and to accept in writing. There seemed every prospect that several months would have to elapse before there could be any general action involving its use.[12]

But the Producing Managers' Association was becoming panicky over the situation by this time. It was apparent that the Play Jury would not be ready to sit on any plays of the current season—and might never really function at all, the way things were going then. Now Equity by its notification to its members that they were not to sign contracts involving their services after June 1, 1924, had indicated clearly enough its intention of an extension of Equity Shop to the Producing Managers' Association at that time.

So the managers began to search for a man whose reputation

would serve as a shadow to hide all past sins of individual managers, and who, like Will Hays, could avert censorship with one hand while staving off Equity Shop with the other. The Annual Meeting of the Producing Managers' Association held on May 5 in the offices of the Association endorsed such action. But it was explained at the time that to legalize this action the Constitution of the Association would have to be amended, the formalities of which would require several weeks. The Producing Managers' Association did not announce who it was considering for the post, although negotiations were already under way.[13]

A FOREIGN ALLIANCE

While the producing managers and the welfare movements were considering these ententes Equity strengthened its position immeasurably by drawing to a successful conclusion the negotiations for affiliation with other English speaking actors' unions which had been pending for several months.

On December 21, 1921, Frank Gillmore announced that the Actors' Equity Association had formed an affiliation and had ratified a working agreement with the English Actors' Association and with the Actors' Federation of Australasia.

It was estimated in the press at that time that there were approximately twenty-five thousand actors under the jurisdiction of these three Associations, including the 1,500 or 2,000 in South Africa who were expected to join the affiliation later.

Outwardly the Producing Managers' Association displayed no qualms at this move, and when reporters sought Sam H. Harris, for an expression of his opinion as to the practical effect of the affiliation with regard, especially, to the producing activities of George M. Cohan in England, he remarked:

"I don't think this affiliation will embarrass us." [14]

But Cohan was under no illusion as to the meaning of the affiliation, and if there was to be any further battling on his part, he preferred to do it on his home grounds, and under conditions with which he was familiar.

One week before he had been scheduled to return to England to launch his invasion of London with all English casts, or on January 10, 1922, the Board of Directors of the Actors' Fidelity

League met and wrote Cohan asking him to reconsider his determination to retire permanently from the American stage, and suggesting that he avail himself of the privilege afforded by membership in the Producing Managers' Association. Cohan's answer was:

"If the Producing Managers' Association can see their way clear to allow me to remain a member of Fidelity and still elect me to membership in their organization I shall be glad to line up with them and fight the closed shop to the very end.

"But I shall have to know immediately on account of my plans, which will be kicked out from under me, so to speak." *

Cohan was not kept waiting very long. That same afternoon the Producing Managers' Association met, and the letter from the Officers and Directors of Fidelity to Cohan, and his reply, were submitted to it for action. By a unanimous vote he was accepted, Fidelity and all.[15]

Through this election Equity Shop became 100 per cent in effect in the legitimate theatre of America. Only Cohan's "The O'Brien Girl" of all the productions presented by managers not members of the Producing Managers' Association, had been operating with a mixed cast, and now this, too, was within the lines originally laid down by Equity.

Cohan speedily made known his conception of the part he expected to play as a member of the P.M.A. In an interview at Atlantic City, where he had taken himself for a brief holiday, he said to a representative of the *New York Herald:*

" 'I am going to make the Producing Managers' Association fight. The program is to enforce the closed shop in 1924 on everybody, but they will find a solid front if they attempt it. I don't believe they will, for I do not think there will be an Actors' Equity Association in 1924.'

"Mr. Cohan digressed to express the belief that 95 per cent of the members of Equity are opposed to the closed shop for stage folk. He went on:

" 'But they have been preached to and talked to and pleaded with and written to and read to until they have come to lean toward the plan. I am standing with the Producing Managers'

* *New York Morning Telegraph,* January 11, 1922.

Association in this and if they need any pep I promise to supply it. They will have to fight if I have to make them do it!' " *

WHICH LEAVES THE P.M.A. ON "PINS AND NEEDLES"

What was generally interpreted as a smart move in the managers' campaign to circumvent Equity's foreign affiliations, was the arrival of Albert de Courville's English revue, "Pins and Needles," which opened at the Shubert Theatre late in January, 1922. Equity representatives calling on the company shortly after its arrival were received with scant coutesy, and its members in general declined to become members of Equity, alleging prior membership in the English Actors' Association.

An investigation disclosed, however, that most of the members of this company were either not members of the Actors' Association, or were delinquent members, who were using that membership as a cloak to avoid Equity membership. Only in this manner could they have declined to apply to Equity, for de Courville was not a member of the Producing Managers' Association.†

Coupled with the attitude of this company came word that Gilbert Miller had imported a number of English actors for "The Czarina," and that the Producing Managers' Association, through various members in a position to do so, meant to experiment with a group of English actors, not members of the English Actors' Association, or only lukewarmly interested in it, to serve as a nucleus of strikebreakers for 1924.

There was a great deal of indignation in Equity at this disclosure, and at the English actors who might lend themselves to this scheme. There was a section of the membership to which England had always been a red rag, anyhow, and these members, with the addition of some who feared the competition of the imported actors, were particularly vocal.

The impression which got around, therefore, was that Equity was planning to exclude all foreign actors, and in its turn this impression, which drew a good deal of adverse editorial and repertorial comment from the newspapers in America, also stirred up uneasiness and recriminations abroad.

* *New York Herald,* January 13, 1922.
† *Equity Magazine,* February, 1922, page 4.

An exchange of cables and letters between Equity Officers and those of the Actors' Association convinced the British that Equity was not planning any such drastic action as had been attributed to it, but it was decided to make something of a ceremony of the explanation to the Equity membership; and at the same time to combine it with a demonstration of strength which would give the producing managers something to think over.

Accordingly, on February 20, a general meeting was held in the Republic Theatre, New York City. This theatre had been donated for the occasion by A. H. Woods, who, although again a member of the Producing Managers' Association, was still a little bit sore at heart over the "Demi-Virgin" incident, and was not averse to demonstrating his good will toward Equity.

The fireworks of the meeting were furnished by the presence and the address of Samuel Gompers. Although he deplored the possibility of strife, Gompers assured the meeting that if the American managers should attempt to break a possible strike in 1924, or any other year, by importing alien actors, the full force of the six million members of the American Federation of Labor would be mobilized behind the actors in their fight.*

That was a very considerable cud for the managers to chew, for the power of the Federation had been manifest in 1919, and now, despite their most desperate endeavors to drive a wedge between Equity and its labor allies, the friendship between them was just as close as ever. The meeting, two thousand strong, cheered Gompers to the echo, and the British invasion was laid in mothballs for another three or four years.

In the past few months the producing managers had suffered a series of disappointments and shocks. They had found that Equity meant what it said about its enforcement of Equity Shop on all managers not covered by the Basic Agreement of 1919; and had every reason to believe that Equity meant to extend its policy to cover the productions now on this basis, in 1924. They were threatened with a drastic censorship, the outcome of which was still in doubt, and they had little faith in the proposed remedy. They had, some of them at any rate, built considerably on the hope of utilizing foreign players to avert Equity Shop; and they had seen Equity convert that liability into an asset. They had

* *Equity Magazine*, February, 1922, page 5.

preached consistently of the iniquity of an alliance between art and labor; but Equity was on better terms with the American Federation of Labor than ever. Truly they had reason to be concerned with the way things were going.

Chiefly they were concerned with what would happen to the active members of the Actors' Fidelity League, whose principles would not allow them to join Equity, after June 1, 1924. The producers were very really disturbed about them. They were friends whose friendship had been proved on more than one occasion. Repeatedly the managers had said that Fidelity would be taken care of in any settlement with Equity, and in this it must be conceded the managers were sincere.

So the managers made another attempt to establish Fidelity's status by direct negotiation. Early in July, 1922, the Producing Managers' Association approached Equity with a plan for a three party agreement, or for two double understandings by which Fidelity could continue to preserve its identity and to recruit for members who would be exempt by their membership from the necessity of joining Equity.

These overtures, however, found Equity cold. Gillmore declared flatly that he would never sit in on any conference to which Fidelity was a party, or enter into any agreement with the Producing Managers' Association in which Equity would be required to recognize Fidelity. He did not see any reason why Fidelity should be represented at a peace conference, Gillmore added, because it was amply represented by the managers themselves.[16]

With affairs at an impasse in this direction Equity felt free to turn its attention to motion pictures. It considered that Will H. Hays had had long enough to familiarize himself with conditions in the industry, and that it would not be unfair to ask him to confer on the subject of a standard contract for motion picture actors and actresses such as existed in the legitimate field.[17] This request, announced by Gillmore, was actually preferred later by the Los Angeles Executive Committee to whom Hays agreed noncommittally to take it under consideration.[18]

Chapter XXVII

THE HIRING OF AUGUSTUS THOMAS

But Equity was not free to press this matter at the time, or for the matter of that, for more than two years afterwards. On the same day that Gillmore allowed it to be known that Equity was about to make this request of Hays, the Producing Managers' Association announced the appointment of Augustus Thomas as Executive Chairman of the Association.

Thomas was even then known as "The Dean of American Dramatists," and he was popularly supposed to have been the man who had brought about a settlement of the strike of 1919. It was to him, then, that the Producing Managers' Association turned to be told how it might avoid the cloud of Equity Shop which every day loomed larger and darker in the sight of its members.

The official invitation to assume the crown and scepter of the Producing Managers' Association was tendered on July 25 by a committee, appointed for that purpose by Sam H. Harris, which was composed of John Golden, Arthur Hopkins, George C. Tyler, Benjamin Roeder and Brock Pemberton. Thomas' term of office was three years from August 1, 1922, which would carry him past the negotiations of the new contract with Equity in 1924, and the salary offered was $25,000 a year.

Thomas felt, and the managers hoped, that even though he was now the representative of the Producing Managers' Association, he would be accepted by Equity as an impartial arbiter or umpire when it came to the matter of Equity Shop.

"What effect will your election have on the negotiations with the Actors' Equity Association?" Thomas was asked by a reporter from the *New York Morning Telegraph,* and his conception of the rôle he was to occupy was:

"Of course," Mr. Thomas replied, "in any dealings with the actors I should represent the managers. But my position in the

negotiations would be of a more impartial or judicial nature than that of a mere managerial representative." *

In the furtherance of that angle he was quoted by the *Herald* as being unpledged to either the open or closed (inferentially the Equity), shop. Minor problems which would engage his attention would be censorship and ticket speculation. But it may be said fairly that it was to discover some substitute for Equity Shop that he had been engaged.†

Although pretty generally the papers referred to Thomas as a "Theatrical Overlord" or as the Will Hays or Judge Landis of the theatre, he never enjoyed the unrestrained power of either of those gentlemen. At no time did he exercise any authority over the players; and for only a little while, and that at the very beginning of his "Reign," did he even control the managers of whom he was the titular head.

Nor were all the members of his own organization confident of his ability to find a way out of their difficulties. On August 1, the day on which Thomas took over the duties of his office, Cohan, then playing in Boston, announced his intention to retire from the theatre in 1924.

"I have prepared to retire in 1924," he declared. "It will be absolutely impossible for producing managers to do business under the conditions the Actors' Equity Association wants. It will mean turning the theatre over to the actor, and as a business man the actor is a fine wandering minstrel. I don't believe the Producing Managers' Association is able to cope with the situation." ‡

NEGOTIATIONS ARE BEGUN

But, despite this pessimism, Thomas was off to a flying start in his work. On August 8, just one week after he had taken over the reins of the Producing Managers' Association, he called on the Council of the Actors' Equity Association and laid before that body the proposition of the organization he represented.

Briefly, it was the maintenance of the existing situation. Equity might continue its Equity Shop Policy against Independent

* *New York Morning Telegraph*, July 26, 1922.
† *New York Herald*, July 27, 1922.
‡ *New York Daily Illustrated News*, August 2, 1922.

Managers, and the lesser fry of the Tent, Repertoire and Stock Companies, world without end. But—and here was the heart of the proposition—it should also retain its Open Shop Policy with the Producing Managers' Association for the same length of time—longer, preferably.

The present arrangement had worked out admirably for everybody, according to Thomas. Why spoil it by instituting, or attempting to institute a policy which would be intolerable for the managers and which, he hinted, was not even really wanted by a majority of the actors any longer? And he intimated that another referendum on the subject of Equity Shop would find the sentiment of the Actors' Equity Association changed. So he said his say and departed, hopeful that the seed he had dropped in the Equity Council Room would bear pleasant fruit.

He could not have been prepared for the open letter which Gillmore dispatched to him and to all the newspapers on August 14, in which Equity's Executive Secretary presenting Equity's case for the agreement it desired, wrote in part:

"It has been frequently stated of late that the opinion of the actors has changed—that they no longer believe in Equity Shop. We do not think this is so, but for the sake of a peaceful adjustment we would be perfectly willing to send out another referendum vote, on the condition that if it were again favorable to Equity Shop the Producing Managers' Association would accept it without further cavil—as we would in case of a reversal—and both sides get together for the following purpose:

"To consider changes in the new contract, to date from June 1, 1924. In case the committees appointed by the two Associations could not agree on any particular point, or points, then an independent abritrator would be called in to decide. Our new contract could thus be drawn up with speed and dispatch, and the unrest which at present exists would be removed. After the new contract went into effect a permanent board of arbitration could be appointed —such as now is in existence, for individual cases, but with an independent umpire."

MR. THOMAS SHOWS HIS METTLE

But Thomas, although surprised at the bomb which had burst in his face, was a tactician of no mean ability and set himself at once to the composition of a reply which would discredit Equity's

claims and place in the brightest possible light the position taken by the Producing Managers' Association. His equally open letter very skillfully rebutted the arguments advanced by Gillmore for a referendum and went him one better by proposing:

"I note that you propose now at this time and far in advance of the termination of the existing contract to put this question again to the vote of your membership upon the condition that if a majority of your Association feel now as they did then, 'the managers will accept the actors' verdict without further cavil.' In questions of right, I am not especially over-borne by the presentation of numbers. I think it was Carlyle who said that to refuse a wrong opinion and then to accept it because many favored it was like refusing a piece of counterfeit money but agreeing to take it if they could get enough of it together. I don't want to question the generosity of your proposal, but I have something simpler to offer. The last total vote of the Actors' Equity Association in its annual election of 1920 was 3,755, a large number, especially when one considers as you ask me to remember that most of your people were constantly on the move and difficult to reach. The Producing Managers' Association which numbers but fifty-three and the American Dramatists' Society which numbers but few more are not so itinerant, and can be more quickly reached. They voted with equal unanimity against your policy of Equity Shop. I suggest that we re-submit the question to them and if they are still against it that the Actors accept the decision without further cavil, and both sides get together for coöperative agreement. This idea is not original with me. Many years ago when Mr. Bill Nye was editing a paper in Wyoming, he received a letter from a lady with ten tickets for a church festival inclosed and a bill of ten dollars. After operating his hand press for a while he responded by sending the lady twenty tickets to the picnic of the Typographic Union at fifty cents a piece and told her 'no money need change hands.'

"In conclusion and in the fullest spirit of the fine wish that is evident in your offer to reopen the question, permit me to say that I regard the present status as a fine thing for the theatre. I like the Equity Shop where it is applied to the 'bogus managers and stranded companies' which as you say 'still average one a week,' and I like its present status as it exempts the Producing Managers' Association from the rigor of the Equity Shop because it enables this Association to say to that kind of 'bogus' manager when he develops his irresponsibility within their ranks, 'We will make good your short-

coming in this instance, but henceforth we cast you into the outer darkness of Equity's disapproval.' I don't think the Producing Managers' Association or the Equity or the Dramatists' needs to vote on this matter again. If your four thousand members will delegate to you, Frank Gillmore, the power, I believe I can persuade these fifty-three men to delegate to me an equal power that you and I can get together long before 1924, and extend this contract profitably to every branch of this great art in which we are so mutually interested. I have an idea that public opinion will almost demand something of that kind. My men may mistrust me a little bit at first because they will remember that I have been a master workman of organized labor and that I am a strong union man. Their confidence if I can inspire it will come from the fact that I don't believe in a federation to the degree in which federation seems to be going. That is to say I do not think that we are ready for a time when every man who gets any money as a wage shall be allied in a class against everybody who pays any money as a wage. That of course is class warfare and contrary to the spirit of this country of ours, and I hope, Frank, that you will tell Equity that I said all of this to you many months ago before the question of Equity Shop was raised, and when you personally discussed it with me, and that I repeat it now because it is my belief and not because I am retained by the Producing Managers' Association which as yet I have not had time to consult."

Nothing definite had been accomplished by this exchange of letters, as indeed nothing definite had been expected. Both sides had been merely feeling the opponent out, to determine his attitude and temper, and in a way to discover the reaction of the public to the views thus expressed.

As to the first of these objects each had found the other resolutely committed to the opposite side of the Equity Shop question and entirely convinced of the impossibility of backing down. The new polls which had been put forward had been merely gestures. Both Equity and the Producing Managers were aware of the nature of any vote on the subject that might be taken at this time and could not have consented to the proposition advanced by the other.

The newspaper reaction, if it meant anything at all, indicated that Thomas had scored above Gillmore. His letter was printed in full, where only passages of Gillmore's were used, and the

comment was rather on his refusal than on the original proposition.

Nevertheless, if it had done nothing else, Equity had smoked him out of his previously reported "neutral" position on Equity Shop, and it had discovered that anything it might gain from either Thomas or the Producing Managers' Association would have to be fought for.

If further confirmation was needed it was given at the Friars' Dinner in the Hotel Astor, on Sunday evening November 19, in honor of "The Triumvirate of the Entertainment Field," Judge Kenesaw Mountain Landis, High Commissioner of Baseball; Will H. Hays, Chairman of the Motion Picture Producers and Distributors of America, Inc.; and Augustus Thomas.

It was a gay and festive occasion, saddened, however, by the announcement from the Toastmaster, George M. Cohan, that Frank Bacon, worn out by the toil of the years before the success of "Lightnin'," and weakened by the demands made upon him by that success, had died in Chicago that night. That he was a beautiful character as well as a fine actor, was the tsetimony of all who knew him. Every speech that night paid tribute to him.

Each of the speakers, naturally enough, spoke of the field in which he was particularly interested, and of his ideals for its future development. Thomas made it his opening speech of a campaign against the Equity Shop.

He declared his opposition to Equity Shop, deplored Equity's membership in the American Federation of Labor, and indicated his probable tactics by saying in conclusion:

"When the managers wished to follow the example of baseball and the films, and call in an outsider presumably impartial enough to assist in the adjustments of their own family quarrels, I accepted the position, not for that purpose, but in the hope that I could ultimately persuade the actors to continue their present working agreement." *

EQUITY DECIDES ON A WAR CHEST

Equity was not in condition, financially, to stand another fight and it had learned in 1919 the serious handicap of poverty in a

* *New York Times*, November 20, 1922.

modern industrial struggle. There remained a year and nine months in which to remedy the situation, but little of that time could be wasted.

A canvass of the Equity budget indicated that the Association was just about living up to its income in the ordinary expenses and was losing money in its none too successful campaign to organize the motion picture field. The extraordinary income from the Annual Balls and Shows just about made up the deficit, but left little for a savings account for the emergency ahead.

At the time the motion picture players had amalgamated with Equity certain conditions had been laid down as corollaries to the amalgamation. One of these was the maintenance of the motion picture casting agency which had already been established in New York by one of the groups.

Of late the agency had not been doing well, and there were fewer and fewer calls upon it for placements. Its operation had contributed materially to the deficit Equity had incurred during the previous financial year. With a fight looming in 1924, it was no part of Equity's plan to have this incubus calling for further expenditures.

Accordingly the Council ordered the closing of the agency on October 28, and speedily wound up its affairs. Henceforth the only agency or placement bureau operated in New York was that of the Chorus Equity Association, under the supervision of Mrs. Marian Lawler.[1]

But still more drastic measures were necessary, and the Officers and Council decided that the initiation fees for Juniors, tent, repertoire, boat and tabloid members should be raised from $5 to $10. The initiation fee for all other members was to jump from $5 to $25. This new scale was to go into effect December 1, 1922, or at any other time after that date thought appropriate by the Council. The delay was for the purpose of persuading non-members to take advantage of an exceptional bargain. And from November 1, 1922, the dues of all members were to be lifted from $12 to $18.

The general meeting at which this proposition was laid before the membership was held in the Forty-Eighth Street Theatre on September 24. In spite of the fact that the dues had been raised

to their present figure only the year before, the meeting did not hesitate about the passage of the new raise.[2]

A shrewd political stroke, though made as a further evidence of Equity's good faith, was the decision of the meeting to bond all members, except those in first class productions, for the faithful performance of their contractual responsibilities. This guarantee was expressed in a resolution which read:

"Resolved that the suggestion of the Council be endorsed that in such cases as may appear to it to be equitable and in its discretion, it shall pay such damages as a manager shall sustain by reason of the breach of any Equity contract with any member in good standing, up to and not exceeding two weeks' salary, this resolution specially to cover what is known as 'jumping contracts.'"[3]

This ended any complaint a manager might make that while he was required to make good breaches of contract the actor was not, and frequently could not pay any judgment that might be obtained. And since this guarantee was not to cover first class companies Equity's risk was not great, for any money thus expended would be required from the actor who had occasioned it, and with Equity Shop in force only Equity actors in good standing would be eligible for rôles. Nevertheless, the moral effect of this resolution was excellent, and did much to enhance Equity's reputation with the managers, the press and the public.

THE LAUNCHING OF EQUITY PLAYERS

One of the goals which had been in view since the organization of the Association, at long range, however, had been an actors' theatre. The success of the Equity Benefits during the strike had strengthened the belief in many minds that the idea was feasible, and one of the first of the general meetings which had followed the strike, that of November 30, 1919, had considered the immediate establishment of such a theatre. The time was not ripe then, however.

But the Council had not allowed the project to die in committee. More than two and a half years later, the matured project was placed before the general membership of the Association at the Ninth Annual Meeting, held this year in the Grand Ball Room of the Hotel Astor, on May 26, 1922.

The spokesman of the Council was Grant Mitchell, Acting President because of the absence of Emerson, who was then recuperating from a serious illness in Europe.

The announcement of the establishment of Equity Players was received with enormous enthusiasm. Offers of money and services were freely tendered, and the project was unanimously endorsed. Its start was made under the fairest and most favorable circumstances.[4]

Equity Players opened its door to the public at the Forty-Eighth Street Theatre, October 2, 1922. For its initial bill it had selected "Malvaloca," a story of Spain by Joaquin and Alvarez Quintero which had been translated by Jay Fassett, Jr., and in which Jane Cowl was starred.

The première of the new producing group was a brilliant affair. The theatre was crowded, not only with subscribers but with hundreds of the theatrically prominent who had turned out to see what this organization would look like. Hundreds of actors sent telegrams of congratulations, and one from The Lambs bore more than two hundred signatures.

Following curtain calls for Miss Cowl and her company at the conclusion of the second act, Francis Wilson, as President of Equity Players, welcomed everybody and thanked them for the response they had given to this first production. He outlined the aims of the Players, and hoped that this endeavor would meet with approval and support.[5]

"Malvaloca" proved to be what the theatre knows as "an artistic success." The company and the settings, by Woodman Thompson, called forth the enthusiastic commendation of the critics, but the public, after its first surge of curiosity, did not rally behind the play, and it was withdrawn at the end of six weeks. Equity Players was "in the red" as the result of its first producing effort.

"VARIETY" PREFERS SERIOUS CHARGES

In all matters pertaining to Equity during the last two years and a half, *Variety* had followed the march of events with an unfriendly eye. About this time, however, it printed two stories concerning Equity whose effect, had they been uncontradicted and

believed by the membership of the Association, would have been most detrimental to Equity. In one of these stories, which appeared in the first of November, 1922, issue of *Variety* the statement was made:

"Equity members assessed $5 each by Labor Federation. Equity gives notice in New York through Deputies. Money for defense of indicted Herrin, Ill., miners and to fight Chicago injunction."

This referred to an attack upon strike breakers in Herrin in which a number of unarmed men had been killed by a mob. The manner of the attack had been such that it had roused widespread condemnation throughout the country. To link Equity to such a cause, it was probably hoped, would weaken the hold of the Association upon its members, and might provoke a revolt against the Administration.

The second item which appeared about the same time, raised Equity's deficit during the last fiscal year from $16,500 to $50,000. Here again the inference was that the administration of the Association was in bad hands, and that the Association itself was hopelessly in debt. Both were very direct threats to Equity's safety.

So seriously were they taken by the Council, considering the tactical situation, that the Executive Secretary was authorized to send a letter to each of the 12,000 members of the Association, refuting these statements and explaining what the correct facts were. That this letter was authorized in the face of the expense entailed indicates the alarm of the Council.

THE P.M.A. PREPARES FOR A "NATIONAL THEATRE"

The ambitious attempt of the Producing Managers' Association to establish a National Theatre was launched as the year 1922 was drawing to a close. It was revealed in an article written for the *Saturday Evening Post* by Augustus Thomas, and published in that periodical on December 2.

The scheme looked to the foundation of a National Theatre with professional players, under the direction of professional producing managers, with the advice of scholars and university heads, and backed by the support of the amateurs, through their drama leagues and little theatres throughout the country. The

tone of the American National Theatre at the start, at any rate, would be classical and the first production, it was intimated, would be a Shakespearean play.

The plan of such a theatre, Thomas said, had been long in his mind, as indeed it had been in the minds of many men both before him and since. It was, perhaps, merely a coincidence that it was announced two months to the day after the Equity Players had set up shop at the Forty-Eighth Street Theatre, and at a time when the actors' theatre, however well it had done artistically, was stumbling financially.

If the managers should desire to counter the actors' attempt to establish a theatre of their own, with a similar theatre whose ideals would be equally lofty but which, on account of the greater experience and aptitude of its proprietors, would be a financial success where the other had been a failure, it would be a cogent argument for 1924, when the actors meant to ask for powers which would, according to the managers, practically deliver the theatre into the actors' hands.

The projected theatre speedily became an assured fact. The *Review* announced that it had been incorporated at Albany, with Nicholas Murray Butler, President of Columbia University, David Belasco, Otto H. Kahn, Lee Shubert, Augustus Thomas and Whitney Warren, a well known architect, as its incorporators.

The list of its directors was imposing, and combined producing talent, scholarship and financial backing in generous quantities.[6]

There were forty directors of the American National Theatre. The Actors' Equity Association, the national organization of the dramatic actors of the country, had just one representative on the Board, John Drew, and he was neither an Officer nor a Councillor, although he had, six months previously, been elected to its Advisory Board.

The presence of both A. L. Erlanger and Lee Shubert on the Board of Directors of the American National Theatre was taken as an evidence that these traditional enemies were preparing to sink their differences, again.

This impression was confirmed three weeks later when Arch Selwyn, after a conference with Sam H. Harris in Baltimore, announced the plans for a gigantic theatre merger, involving most of the important producing managers who owned their own theatres in New York, and the great chain of theatres owned or

booked by the Erlanger and Shubert offices across the country and back. According to the *New York American:*

"Mr. Selwyn said the plan called for a $100,000,000 corporation to be financed by J. P. Morgan & Co. and the First National Bank of New York, and the Commonwealth Trust Company and the Illinois Trust Company of Chicago.

"Lee Shubert believes the big corporation would be able to promote efficiency by preventing conflicting bookings and cut-throat competition. . . . Erlanger attorneys are working out the plan, which is said to be projected for operation in September if the interested producers and financiers concerned agree with each other and among themselves." *

Even in advance of the actual agreement it was known that the Shubert and Erlanger booking departments were beginning to work in harmony from about the first of the year in certain cities, such as Washington, D. C., where previously they had competed actively against each other.

The successful organization of such a corporation would unquestionably consolidate the Producing Managers' Association and would make that body a more formidable organization for negotiations with Equity.

A part of the proposed scheme which became known later was the issuance through the House of Morgan of stock in this corporation for sale to the public. This would not only distribute more widely the financial burden of the operation of the corporation, but, by the induction of a considerable number of the public into partnership with the managers, would give the stockholders a proprietary interest in it which would tend to deprive the Actors' Equity Association of the popular support it had enjoyed in 1919. Equity looked with no favor on the proposal from the beginning.

ANOTHER MOVE FOR A MOVIE CONTRACT

Since the preferment of a request to Will H. Hays for a standard contract for motion picture actors, seven months had elapsed, and the matter was still "under consideration." In the hope that a definite program might provoke favorable action on the request, the Council, during the first week of the new year, appointed a committee to draft a standard minimum motion picture contract,

* *New York American,* January 20, 1923.

and to suggest such other changes in contractual procedure as might seem justified from a study of the situation.

Among these changes, suggested by the motion picture players themselves, was the establishment of a standard working week fixed, tentatively, at forty-eight hours; that the minimum time of employment be agreed upon prior to beginning work; and that, should a part be eliminated from a script altogether, the actor should receive a week's salary, provided he had been notified of the cut prior to the date on which the contract was to have begun. The extras also had their complaints, particularly about the Service Bureau, a casting agency which collected a fee of 7 per cent from everyone whom it had advised of an opening whether the place had been secured by the extra himself or not. There were charges of favoritism in casting, and assertions that doubles for prominent actors were required to take needlessly dangerous chances with life and limb.

In the face of these evidences of dissatisfaction, and upon the rumor that the Equity Council was about to submit an ultimatum concerning the contract it wanted, the rumor was broadcast that Equity was contemplating a countrywide strike in the motion picture studios if its demands were refused. It caused a great deal of uneasiness in all directions, for the strength of the Association was an unknown quantity in this field.

But the Officers and Council of the Association were not minded to cry "Wolf" and had no desire to force a fight with the motion picture producers in the face of the evident intention of the legitimate producers to resist Equity Shop eighteen months hence. Accordingly, Gillmore issued a statement in which he declared:

"There is no thought of our striking. What I intended to convey was that our relations with Mr. Hays and the heads of the motion picture industry were very pleasant, indeed, and that our Los Angeles office was drawing up a suggested contract, based on the same principle of standardized form which has been so successful in the stage field. The best way to secure such an agreement is by frank discussion and coöperation, and that is absolutely all we have in mind." *

With that announcement the status quo was resumed: Mr. Hays took the request under consideration.

* *New York Morning Telegraph*, January 7, 1923.

Chapter XXVIII

THE BATTLE OVER SUNDAY PERFORMANCES

The tactical value of being uncommitted to a motion picture campaign was quickly apparent. Within a month of the issuance of the statement which quieted the rumors of a studio war, Equity had another major campaign on its hands.

That restless firebrand, William A. Brady, precipitated the issue. He had always chafed under Equity's ruling against the presentation of legitimate productions on Sunday, claiming that under that ruling legitimate producers were being discriminated against unfairly. For, Brady argued, motion picture theatres, baseball parks, and other forms of amusement were allowed to remain open on Sunday and found it the most profitable day of the week. And the vaudeville houses always had been open Sundays, and many Equity members played in them without drawing a word of censure from their Association. Brady, to draw attention to his arguments, set about preparing a test case.

"La Flamme," a translation of Henri Bernstein's play, was put in rehearsal for what was announced as a benefit performance on Sunday, February 11. But tickets were sold as for ordinary presentations, and Equity was convinced that it was only technically a benefit, which, if it benefited anybody, was to the advantage of Brady himself.

The Council immediately reacted to this challenge. At its next meeting it reaffirmed the resolution of the general meeting of November 30, 1919, which had placed Equity definitely in opposition to dramatic performances on Sunday.[1]

Individual letters were also sent to each of the thirteen members of the cast of "La Flamme" calling attention to this resolution, and requesting that they decline to take part in any further Sunday performances.

Brady, from Atlantic City, at once took exception to this ruling and challenged Gillmore to debate on the issue in the Forty-Eighth Street Theatre on the night of Sunday, February 25.

Declaring that he did not wish to be accused of packing the house, Brady announced that he would be willing to leave the distribution of the tickets to Gillmore, and to the Reverend Harry Bowlby of the Lord's Day Alliance, which was particularly active about this time in a crusade against Sunday amusements of any kind.[2]

Gillmore accepted the proffered debate although it was never held, but the ruling stood, and while Brady asserted that Equity could not stop him from giving Sunday shows at any time he wanted to do it, there was no further performance of "La Flamme."

But the issue had not yet been disposed of by any means. A small coöperative group of players known as the Inter-Theatre-Arts, Inc., had revived "March Hares," by Harry Wagstaff Gribble, and planned its presentation at the Little Theatre on the evening of Sunday, March 11.

Having just come down heavily on Brady for something similar, Equity did not feel that it could ignore this performance. And certainly to have ruled that because the actors of this cast were willing to appear on Sunday the performance was permissible would have provided not a loophole but a breach through which any manager could have run a production of any sort. For, under such a ruling, those actors who would not have been "willing" to perform on Sundays would assuredly not have been chosen for parts.

Accordingly on March 1, the Council notified the author, and each member of the "March Hares" cast, that Equity's stand on Sunday performances had not changed since the passage of the resolution which had doused Brady's "Flamme" and requesting the recipients not to appear on Sunday, March 11.

The "March Hares" were not rebellious over this curtailment of their activities, but they were, it would seem, slightly mad. Following a conference between representatives of the company and Gillmore at Equity Headquarters the next day, the Inter-Theatre-Arts, Inc., announced that the members of the company had voted unanimously to give the performance scheduled for March 11 as a benefit. The recipient of the benefit—if any—would be the scholarship fund of the Drama Institute, an offshoot of the Inter-Theatre-Arts, Inc.

Although Inter-Theatre-Arts, Inc., felt that it had solved the problem by this move, Equity was not so sure. Neither was the Inter-Arts when it received the letter Gillmore wrote to Gribble on reading the announcement. In this letter which was dated March 5, he said:

"It is my duty to inform you that the instructions sent you on March 1 have not been retracted. If any new condition should arise which removes 'March Hares' from the ruling it is your duty, as a member of the Association, to come in and inform the office, since it is up to the Council alone to decide whether there is any evasion or subterfuge involved.

"I don't need to inform you that this Sunday ruling has been made by the Council, consistent with a mandate given at a general meeting of members, and that its aim is to protect all New York actors from having to perform seven days in the week, and whereas at first a few individuals may have to act contrary to their desires, in the long run it will be to their advantage also. Our consideration has to be the greatest good to the greatest number."

The Inter-Theatre-Arts, Inc., had gone so far in its preparations for the performance that it did not feel that it could abandon the production. But it was not prepared to defy the Actors' Equity Association, nor could it have counted on the support of its members in any such course. The presentation of "March Hares" was announced as beginning at midnight on Sunday, technically, therefore, on Monday, March 12, and each member of the cast signed a letter to the Council declaring his intention to abide by its rulings.[3]

So much publicity had been given to this dispute that Equity thought it advisable to combine the election of a nominating committee with a general meeting at which the course of events might be laid before the membership and its temper ascertained.

The meeting was held on Sunday afternoon, March 11, in the Forty-Eighth Street Theatre. There was, of course, a good deal of talk. There were even speakers who said that the actors, as servants of the public, had no choice but to serve at any and all times they might be asked. But the general sentiment of the Association, as reflected by the meeting, was that the Council and the Officers had acted in the way calculated to serve best the interests of the profession. At the conclusion of the discussion the

resolution presented by Harry Mestayer was passed without a dissenting voice. This resolution read:

"We absolutely approve of and give the Council our strongest support in its recent action in requesting members of this organization in 'March Hares' company, etc., not to play on Sunday and we request our Council in all cases, with absolutely no exception, where it is not legal, and where it is not the custom already to forbid us to play on Sunday, except for bona fide benefits." [4]

And very early the next morning, a few minutes after midnight, to be exact, "March Hares" did have its presentation at the Little Theatre, a presentation which, in spite of the publicity it had received, did not bring out the support for which its sponsors had hoped.

THE LINEUP ON THE LEVY-FLYNN BILL

The announcement which had called the Association together that day had informed the membership of the introduction of the Levy-Flynn Bill in the New York State Legislature, to legalize Sunday performances, and Emerson, in his address to the meeting, intimated something of the organized lobby which was trying to put over an open Sunday at Albany, but few members of the Association knew what forces had rallied to its support, or how near they came to success in their endeavors. To ensure its passage not only had there been lined up all the forces which ordinarily back such a bill, including religious denominations whose observances are of a day other than Sunday, but a deputation had gone up from the Producing Managers' Association, headed by Augustus Thomas, and ex-Senator J. Henry Walters, a member of counsel for the B. F. Keith Vaudeville Circuit, who attended as a representative of E. F. Albee.

Frank Gillmore and Florence Reed were appointed a Committee of two by the Council to head off the Levy-Flynn Bill. At the first of the scheduled hearings at Albany, that before the Assembly Codes Committee on April 10, it was found necessary to move the hearing into the Assembly Chamber in order to accommodate all those who wished to attend.

Before the presentation of evidence by the opposition was begun, Assemblyman Duke, Chairman of the Committee, was

requested by Senator Meyer Levy, its sponsor in the State Senate, for permission to explain his position. In his statement Senator Levy declared:

"When I was requested to introduce this bill I did it as a corrective measure. Whatever may or may not be the law, the fact remains that certain types of theatrical performances are actually being given and rendered in the greater city and have been so given for quite some time past.

"I felt when I introduced this bill, and I still feel, that public sentiment is heartily behind the bill. I have not been troubled with the opposition of such concerns as the Lord's Day Alliance and other regulators of everybody else's morals. However, the opposition of the Actors' Equity Association is on an entirely different plane. They do not pretend to oppose this bill upon religious or moral grounds, but they oppose it upon grounds which I consider highly respectable. They claim they have a right to one day's rest a week, a claim in which I heartily concur. However, there should not be any great difficulty in making proper provision for this, so the actor may have the same amount of rest each week as the laboring and professional man." [5]

Gillmore, the first speaker for the opposition to the bill, holding up a long roll, crowded with signatures, said:

"In two days I went around the theatres of New York City and presented a petition which is addressed to you."

There were twelve hundred and sixty-one signatures to that petition, and they were supported by a score of telegrams from companies on the road signed by the stars which headed them, and sometimes by the whole company. Proceeding further, Gillmore said:

"Now, Mr. Brady, who I believe is in favor of this bill, will probably tell you it is discriminating against his property, that the theatre around the corner, the vaudeville and motion picture house should not be allowed to open when his theatre is not allowed to open. It is true. I admit it is discriminating against Mr. Brady, discriminating against what—against Mr. Brady's pocket book." [6]

Florence Reed continued the argument in the same vein, drawing on her own personal experiences for examples.

"The only thing upon which I can speak with authority," she said, "is the actual physical fact of having to play seven nights

a week. It is a dreadful hardship, you may believe me. It is an atrocious thing to ask of anyone who has on her shoulders the carrying through of a whole production, as every star has.

"On my Sundays I would either stay in bed all day long or go to the country—it is the mental let down—that you have not got to go there that night—you can just slump when seven or half past seven comes—when you would be hurrying up, getting in your clothes to get out there—that one precious, blessed twenty-four hours—so, for God's sake, please don't take it away from us." *

Other speakers from the State Federation of Labor, the religious societies and the Anti-Saloon League followed, and after Assemblyman Flynn had announced that in presenting the bill he had only sought to secure a showdown on popular opinion, the only speakers in favor of the bill proved to be Thomas and William A. Brady.

Thomas endeavored to prove that Equity was responsible for the conditions which existed, and should share any opprobrium they might occasion.

The remainder of his argument was devoted to calling attention to the constitutional right of anyone to individual freedom of action (inferentially to work on Sunday if he chose).

Brady, as Gillmore had forecast, confined his appeal to the discrimination against the interests he represented.

"I stand here, gentlemen," he told the meeting, "representing men who own between seventy-five and one hundred million dollars of real estate in New York City. Throughout the State in your largest cities, probably ten to fifteen million more. I am here asking for a square deal for the legitimate theatres of the State of New York. I might say to you that Mr. Gillmore pleads for special legislation for the actors in New York.

"In other words, gentlemen, as things exist in New York City, there is one law on one street for one set of people, and another law on another street for another set of people." †

But the arguments presented by the opponents of the measure were too strong. The Levy-Flynn Bill was reported killed the next day in the Codes Committees of both Houses.[7]

* Transcript of hearing before Assembly Codes Committee, April 10, 1923, page 11.

† *Ibid.*, page 30.

ALBEE MIXES IN THE SUNDAY FIGHT

The fight was not yet won, however. Largely through the efforts of former State Senator J. Henry Walters, who had been attending the hearings, Senator Levy revamped his bill to provide that:

"The board of aldermen, common council or other legislative body of a city of the first class may adopt an ordinance authorizing the performance in duly licensed theatres of such city on the first day of the week after two o'clock in the afternoon of theatrical performances of a kind and character described in such ordinance, and thereupon the provisions of section thirteen hundred and fifty-two of this chapter or of any other act prohibiting theatrical performances on the first day of the week shall not be applicable to such theatrical performances as are permitted by such ordinance." [8]

On its face this was not the same bill to which Equity had objected. The original bill had simply said, at the end of the act in which all amusements there described were prohibited on Sunday:

"The provisions of this section shall not apply to legitimate dramatic or theatrical performances in a duly licensed theatre in a city of the first class."

Now the power to say whether these performances should or should not be tolerated was to be left to the governing body of the city affected, an example of the application of the home rule form of government then much discussed in New York.

Actually the effect would have been exactly the same. For the Board of Aldermen of New York City had already demonstrated its feeling with regard to Sunday amusements by their sanctioning of many other forms of entertainment.

Due to the efforts of the Sunday lobby the new Levy Bill was favorably reported out of the Senate Codes Committee on April 19. It was at once presented to the Senate and through the inexplicably favorable vote of State Senator Robert C. Lacey, a labor Senator of Buffalo, voting for it in spite of the adverse action of the State Federation of Labor, it was passed on April 25. There remained then only the hurdle of the Assembly and the Governor's signature to make it law. The latter, Equity had

reason to believe, would not be withheld if the Legislature should act favorably.[9]

Equity was awake to the seriousness of the emergency and organized a vigorous counter-offensive. A barrage of telegrams was aimed at every Assemblyman, and representative stars who were also householders telegraphed and wrote their disapproval of the measure to the Assemblymen from their own districts.[10]

The American Federation of Labor was appealed to, and conferences between Gillmore and Samuel Gompers were held, during which Gompers outlined a plan of campaign, in which he promised that the entire support of the Federation would be thrown behind Equity in its fight.

Finally the Officers and Council of the Association decided that an indignation meeting, if it really generated indignation enough, would emphasize Equity's protest, and might start a back fire against those managerial forces which had been responsible for the passage of the Levy-Flynn Bill.

At such short notice it was found that the Hotel Astor, the usual scene of the Equity meetings, could not be secured, and the Ball Room of the Hotel Plaza was engaged for the afternoon of Sunday, April 29.

By telephone or telegram the Deputy of each company playing within a radius of one hundred miles of New York City was urged to get his company to the meeting one hundred per cent strong. The meeting was characterized in these messages as the most important which had been held since the strike.

That this was, indeed, the case was indicated by an open letter from Augustus Thomas to Frank Gillmore, via the front pages of the newspapers, dated April 27, which was as soon as the managers had gotten wind of the meeting. In that letter the managers' leader revealed that negotiations for a new contract in 1924, which had been going forward since February, had now been definitely broken off, and that Gillmore intended to bare the details of these negotiations to the Hotel Plaza meeting.[11]

Thomas' letter was, then, an attempt to beat Gillmore to any revelations he might make there, and by reciting the managers' side of the story first and loudest to establish the case of the Producing Managers' Association in the minds of the actors prior to the meeting.

Chapter XXIX

THE INDIGNATION MEETING

Two thousand members of the Association jammed the not too commodious ball room of the Plaza in response to Equity's urgent invitation. Downstairs, in front of the elevators which served the ball room, sat representatives of most of the city newspapers and the wire services, at one time or other during the afternoon. It was a long afternoon, too, for not only was the campaign at Albany explained, but a minute account of the negotiations with the managers was rendered by John Emerson.

The Equity leader was not in the mood to mince words.

"I believe that every member of this Association who has ever heard me address a meeting, and every member of the Council who knows my record as an official of this organization, will bear witness that I have consistently and persistently maintained that we should, in all our dealings with the managers, try to understand their problems," he began, "to get, if possible, their point of view, and to see that justice is done them, as well as the members of our Association. I still maintain that this should be done, and that the ideals of our Association must in all circumstances be maintained.

"But," he continued, "I am obliged to confess that I am getting a bit discouraged in trying to deal in a spirit of friendliness with an organization such as the Producing Managers' Association is proving to be, even under the supposedly enlightened leadership of Mr. Augustus Thomas.

"And in this I have no personal quarrel with Mr. Thomas, or with any individual member of his Association. There are many of them, as I have always maintained, who treat us fairly, and who, I believe, wish us well. There are a few of them whom I number among my own valued personal friends, and I could only wish that they didn't belong to an organization such as the P.M.A., an organization which pats our Association on the back, tells us how much good Equity has done, how anxious they are

that our Association should continue its good work for the benefit of the whole theatre, how glad they are to work and coöperate with us in helping to maintain the rights, the dignity and the improved position which we have secured for the actor; and then, after all this palaver, go out and consort with E. F. Albee, the ancient and implacable foe of our Association, in trying to cram through the Legislature at Albany an atrocious thing like this Levy Bill, which aims to deprive the actor of his one day of rest, thus striking at the very commonest rights of man guaranteed him since the days of Moses and the ten commandments, and maintained in all civilized communities the world over down to this present moment.

"And the P.M.A. cannot shove responsibility for this abominable bill off on to the shoulders of William A. Brady as some of them are trying to do. For when they send their Executive Chairman, Mr. Augustus Thomas, up to Albany as they did, to fight for this bill, and when they join forces with the representative of Mr. Albee to jam this bill through the Senate, the responsibility must rest on their shoulders, and they cannot shift it off to any one particular member of their organization.

"Nor can Mr. Thomas sidestep his responsibility for this bill by saying that he does not favor actors working seven days in the week. If Mr. Thomas does not favor actors working seven days in the week, then why did he go to Albany and support this bill, which means just exactly that and nothing less?

"If Mr. Thomas and his organization do not favor actors working seven days a week why has not some such provision been incorporated into that bill?

"Simply because they do favor actors working seven days a week, and have no intention of giving them one day of rest in seven if they can possibly prevent it. This is most clearly revealed and with almost childlike ingenuousness in their statement to the Press yesterday morning, in which they reveal the fact that the following resolution was passed by their body on Friday:

"'Resolved, That the chairman of the committee and the chairman of the association be instructed to state that the purpose is to give the actor seven days' work in the week with his option to work on the seventh day, if he so desires, with extra pay.'

"Does that look as if they did not favor the actor working seven days a week? Hardly! That is exactly what they are after, seven days work per week, and believe me if it were not for the Equity Association they would never for a moment dream of even paying extra for the extra performance. They certainly never did before the Equity Association compelled them to.

"Of course they will pay you an extra eighth now for a Sunday night performance, in order to get the thing established—they'd be very bad business men if they wouldn't.

"But wait only a little while until the thing is set, and the New York public is accustomed to having the theatres open seven nights a week, then see how quickly, except in the biggest successes, the mid-week matinée will disappear, and the Sunday night performance be substituted in its place, thus making the actor work seven nights a week, instead of six, for exactly the same pay that he is getting now.

"But even if the mid-week matinée should not be cut out there will inevitably be a trimming down of salaries, and for this reason: experience has shown that there is only a certain amount of money spent each week on the theatre and, except in the case of the biggest successes, it doesn't matter materially whether you give eight or ten or twenty performances a week, your receipts are approximately the same, the receipts being spread over any number of performances you may give.

"This has been proved in Chicago where, on the average (again with the exception of the biggest successes), a nine performance week brings into the box office no more than an eight performance week in New York, although the prices of admission are exactly the same.

"And even with the biggest successes, increased weekly receipts only shorten the run of the piece, so that the actor on the season will make no more than he makes now, and will pay the price for the pressure of overwork in decreased effectiveness as an artist, loss of interest in and enthusiasm for his work, mental and physical depression, nervous exhaustion, or in an extreme case, even premature death as certainly happened with our dearly beloved Frank Bacon." *

Then Mr. Emerson quoted a letter defining Equity's jurisdic-

* *Equity Magazine*, May, 1923, page 9.

tion in the matter of vaudeville, written to straighten out Senator Levy on the distinction, and the reason why there had been no more protest from the vaudeville actor over having to play seven days a week.

"Let us not deceive ourselves, my friends," Emerson resumed. "Let us not relapse into a state of easy complacency regarding this matter, for just as sure as the Levy Bill becomes a law in this state, just so sure will the actors in this state be working seven nights a week, unless they are supported by an organization strong enough to prevent it, and the only way for our organization to be strong enough to prevent it is to put in force, with the Producing Managers' Association, the Equity Shop Policy which is now in force with those outside its ranks.

THE NEGOTIATIONS ON EQUITY SHOP

"And this brings me to the negotiations which have been going on for several weeks looking to a new agreement after June 1, 1924, and which negotiations, I regret to say, have up to now arrived exactly nowhere, the P.M.A. saying they will not accept our Equity Shop Policy, and we saying they will have to accept it, unless they submit to us a better and more satisfactory substitute than they have offered us to date.

"The negotiations between the P.M.A. and the A.E.A. were begun early in February, when Mr. Thomas asked that he be allowed to attend a meeting of our Council for the purpose of discussing a new agreement with the Producing Managers' Association from June 1, 1924.

"We promptly and gladly acceded to this request, and Mr. Thomas appeared before our Council on February 13th. We received him with the greatest cordiality, and listened to him with the utmost deference and respect, while he laid before us a request from the P.M.A. that the present basic agreement be extended, exactly as it is. After asking him a few questions, correcting a few misstatements and informing him of a few things which he did not seem to know, we bade him a very courteous good-by, after he had invited Mr. Gillmore and myself to return his visit by attending a meeting of the P.M.A.

"This we did on March 7th, and were very courteously re-

ceived by the very large attendance of managers at the meeting. They listened to us very attentively while we laid before them the reasons why we felt that the Equity Shop Policy should apply to the members of the P.M.A. as well as to those outside its ranks, as we could see no reason why they should be exempted any more than the Touring Managers' Association, or any other body of managers.

"When we had finished our presentation, Mr. Thomas came through with the astounding statement that no matter what the effect of it might be, they objected to it on principle. After we had sufficiently recovered our breath to speak we reminded Mr. Thomas that a principle was a thing of general application, and we could not quite see how he could object on principle to any policy being applied to the members of the P.M.A. which he was quite willing to be applied to those outside.

"While we were all quite courteous and good natured, the discussion during this meeting waxed a little warm at times, and at one point in the proceedings Mr. Thomas handed us another surprise by stating that we had fractured the Basic Agreement by instituting our Equity Shop even outside the P.M.A. during the life of the present agreement with them. We could scarcely believe our ears and asked him to repeat the accusation, which he did. We then asked him if it was possible that he did not know that the question had been raised by the P.M.A. over a year ago and was put up to Judge Julian Mack for arbitration, and that Judge Mack had decided the matter exactly 100 per cent in our favor.

"Mr. Thomas seemed somewhat abashed and replied, to our amazement, that he had never read Judge Mack's decision. 'Well,' said Mr. Gillmore, 'I'll send you a copy,' and he did, and I hope Mr. Thomas has read it by now, and that it may deter him in the future from making any more such foolish accusations.

"Well, after a good deal of more or less friendly discussion, this meeting ended, after each side had agreed to appoint a committee to get together and try to find some common ground on which we might meet.

"So they appointed William A. Brady, Lee Shubert and Arthur Hopkins as their committee with Mr. Thomas a member ex-officio. We appointed Frank Gillmore, Florence Reed, and John

Willard as our committee, with myself a member ex-officio. After the first two meetings Mr. Hopkins left for Europe, and Mr. Edgar Selwyn took his place on the P.M.A. committee.

"Our first meeting was held on March 26th, and after a general discussion of the pros and cons and whys and wherefores of the situation, the Managers' Committee placed in our hands a proposition which we were to take to our Council, and which they seemed to think the Council would accept as a substitute for the Equity Shop.

"It will be noted that all these communications, both theirs and ours, are couched in very nice, pretty, diplomatic language, and when you first read them they sound lovely. It's only when you analyze them that you discover how much rhyme or reason, or common horse sense they really contain.

THE MANAGERS' PROPOSITION

"Well, here is the proposition which the Producing Managers' Association first made to us, if, in return, we would exempt them from the operation of the Equity Shop, they having no objection to the Equity Shop being applied to anyone else, so long as it didn't apply to them.

"The committee from the A.E.A. considered this proposition very carefully and decided to lay it before the Council without any recommendation whatever. This we did, and the Council, on their own initiative and without any prompting from us, proceeded to dissect it and after a long discussion, voted unanimously to turn it down. Now why? I'll tell you.

"In the first paragraph of this proposition, the P.M.A. assume that our only reason for wishing the Equity Shop is our conviction that without it we shall not be able to keep our membership up to its present numerical strength. This is, indeed, one, and the most potent reason for the Equity Shop, but it is not the only reason. Another very strong reason is the fact that we cannot trust the P.M.A. to take the trouble to see that their members live up to their agreements. They haven't done it in the past, and we see no reason to believe that they will do it in the future. We have accumulated a long list of flagrant abuses and infractions

of the present basic agreement by members of the P.M.A. which the P.M.A. have taken no measure to prevent, and which at the proper time we shall bring forward.

"In the second paragraph they state that they have no desire to diminish the present number of the Equity Association members, nor have they any desire to upbuild any opposition organization. It would be lovely if we could believe this, but if they have no desire to upbuild any opposition organization, why won't they agree that there shall be no other organization? And if they have no desire to see our present membership decrease, why will they not agree that our membership in their companies shall be kept at its present numerical strength? They could easily do this if they wanted to, but they have refused to give us even this guarantee. If they will not back up their protestations of friendship for us, of what use are they?

"In the third paragraph of their proposition, they say that they 'will refuse to engage any actor now a member of the Equity Association who is hereafter dropped from that Association for the non-payment of dues or who shall at the time of said engagement be in arrears of dues to the Actors' Equity Association.'

"That sounds very fine, but it makes no provision to prevent resignations from the Association by those who want to side step any further paying of dues nor does it make any provision for the new recruits to the stage coming into the Association. So there is nothing in this proposition to prevent members dropping out of the Association by resigning, nor is there any assurance whatever that newcomers, by a process of subtle suggestion and discrimination, shall not be kept from joining the Association. In a word, my friends, this proposition is worth to us, as I see it, and as the Council sees it, just exactly nothing.

"We should have listened to this proposition with more patience if it had carried with it an agreement to keep our membership in their companies at the present strength, but this they consistently refused to consider, which leads us to the obvious conclusion that they don't want our membership kept even at its present strength, and are not going to have it kept there if they can avoid it.

"So there was absolutely nothing to do but for the Council to

turn down this proposition and instruct our committee to return to them with our counter-proposition, which will be read to you in a moment.

EQUITY'S COUNTER-PROPOSITION

"'"Resolved, that our Committee notify the P.M.A. that it is the sense of the A.E.A. Council that we must definitely adhere to our policy of Equity Shop."

"'In order, however, to relieve theatre owners and producers from any of the fears which they have expressed concerning this policy the A.E.A. in any new agreement with the P.M.A. will pledge itself to the principle of arbitration, thus obviating strikes, and will promise to agree, both by contract and if necessary by appropriate changes of its fundamental laws, which changes shall remain fixed in the constitution during the life of the agreement, not in any wise, directly or indirectly, to interfere with either the kind, quality or character of plays offered for production, nor with the casting thereof nor with the remuneration to be paid its members and it will guarantee a continuance of its open door policy whereby anyone offered a part by a manager automatically becomes eligible and cannot be denied membership. Equity is willing if required to give any reasonable guaranty against a breach of these promises if the P.M.A. will give the same guaranty against any violation on its part.'

"I wish you to note, and note carefully, that this proposition meets every objection either the managers or authors have ever raised to the Equity Shop, and gives them positive guarantees that none of the evils they fear can possibly occur. You would think that any sane body of men would accept it and end all trouble at once, particularly in view of their repeated protestations of friendship and their reiterated assurances that they consider the Equity Association a great benefit to the theatre, and that they wish it to remain strong and powerful so that it may continue to carry on the good work it is doing. I say you would think, in view of all this, that they would gladly accept these guarantees and end the trouble at once. But they won't accept them, they won't even discuss them, and the question arises, why? And I, for one, have become thoroughly convinced that the reason is that they are not sincere when they say they like our Asso-

ciation and want it to be strong and continue the good work it is doing. They want nothing of the sort, and I have become thoroughly convinced—I hate to say it, but I have become thoroughly convinced—that nothing would please them better than the disintegration of our organization, and that secretly in their hearts they are hoping that it may be ultimately destroyed. These are harsh words, my friends, and may sound strange coming from me, but after my experiences of the past few weeks, I simply cannot bring my mind to any other conclusion. I am speaking, mind you, of a majority of their members who control their actions. I still maintain that we have real friends among them, but unfortunately they are in the minority and are not in control.

THE P.M.A. IS SHOCKED

"Well, this proposition of ours (which, mind you, meets every objection they have ever made), was read to their committee, and the effect upon them was surprising. It seemed to come to them as a thunderclap from a blue sky. They apparently had been thinking that we were not in earnest about the Equity Shop, and that we would fall over ourselves to accept the first proposition they chose to make us. It seemed impossible for them to realize we meant exactly what we said, and that we were thoroughly prepared to go through. They apparently thought we had just been doing a lot of talking, and that when it really came to a show-down, we would resolve ourselves into a bunch of jelly fish, and meekly and childishly accept any proposition they chose to make us. As to how they could possibly think this after the trouncing they got in 1919 and after the events of the following four years, I have no idea. There seems to be still remaining with them that peculiar psychology, that delusion of superiority and grandeur, which is impossible to explain on any rational basis.

"Mr. Thomas seemed particularly upset, and, I am sorry to say, he lost the suavity and good nature which he had maintained up to that point, and became just a little nasty. After he had recovered from his surprise his first remark was: 'Well, are you going to strike now, or wait till 1924?' I was terribly sorry he said that because it was an insult not only to us but to the Council and to the entire Association. It was difficult to keep a serene,

unruffled temper in the face of this, but we were anxious to avoid acrimony and bitterness, so we managed to maintain our calm and equanimity, and replied to Mr. Thomas that we had a contract binding us until June 1, 1924, and that it was not our habit to break contracts. 'Well,' remarked Mr. Thomas, 'you broke your contracts in 1919. How do we know you won't do it again?' It required almost superhuman effort to hold in after that slam, but still we managed to do it, and Mr. Gillmore, in his best diplomatic style, said to Mr. Thomas that apparently he was not very well acquainted with the facts leading up to the trouble in 1919, but the actors certainly were not the ones who had broken agreements then, and that at the next meeting of the Committee he (Mr. Gillmore), would give Mr. Thomas an outline of just what had happened in 1919, so that he might have it for his future guidance.

"After this little colloquy, came the usual threat on the part of the managers that if the Equity Shop went into force, they would stop producing. This relieved the tension, and gave us a laugh. Both Mr. Hopkins and Mr. Brady tried to bluff it through, but we told them we had heard those stories before, and they would have to come through with something better than that if they wanted to throw a scare into us. They finally realized that this bluff wouldn't go at all, and Brady's eyes twinkled as he almost laughed outright to himself.

"Lee Shubert then boldly proclaimed that he would put pictures in all his houses, and that was my cue to laugh. I told him when he talked about pictures he hit me where I lived, and that I might give him a few pointers, such as the fact that there were not enough passably good pictures made to supply the regular picture houses, and if he thought he could get enough pictures to fill his houses he'd better think again. This seemed to be an entirely new idea to him, but he replied quite weakly: 'Well, I can fill some of them, anyway,' and then we all gave him the laugh—he had to laugh himself.

"In fact, as far as the managers present were concerned, the meeting was gradually getting onto a more or less humorous and agreeable basis. Mr. Thomas, however, still seemed terribly upset, and appeared to disapprove of all this good natured hilarity.

"He began to attack us on our affiliation with the Federation

of Labor (an old bugaboo with Mr. Thomas), and cited a hypothetical case or two, asking us, if we had our Equity Shop what we would do if the Federation of Labor should call a general strike? We replied that it was not the habit of the Federation of Labor to call general strikes, but if it should, our action under the Equity Shop would be precisely the same as our action without it—that we could not be ordered out by the F. of L. but would decide for ourselves. He then said:

" 'Suppose on the opening night of the "Follies," for instance, a delegate would come to the theatre from the costumers' union and demand that the actors walk out because the costumes had been made by non-union labor.' Would not our members, under the Equity Shop, be obliged to walk out?

"We replied that they certainly would not. He didn't seem to understand how this could be, so we decided to write it all out for him, and bring it to him at the next meeting. He still seemed unable to understand why the Council had not accepted the managers' proposition, and we explained to him that the proposition he had made wasn't even as good as those made by the P.M.A. a year and a half ago through Mr. Winthrop Ames' Committee. He didn't seem to know anything about these propositions, and asked what they were.

"We explained to him certain offers the P.M.A. had made at that time, if we would exempt them from the application of the Equity Shop after 1924. This was apparently all news to Mr. Thomas, and he seemed very much interested. He then asked us if such propositions were made today, would the Council accept them? We replied that the Council had turned them down before, and we knew no reason why they would not do so again.

"He then asked if we would be willing to take another proposition back to our Council, and we told them, of course, we would take to the Council any proposition they wished to make.

"And so the second meeting ended with everybody jollying everybody else, except Mr. Thomas, who seemed very much upset and worried.

THE MANAGERS TRY AGAIN

"And here is the second proposition they made us at the conference March 30, 1923:

"This proposition sounds lovely. E. F. Albee himself might have written it. But let us examine it, for in reality it is worse than the first. It is paternalistic to the last degree, robs us of our independence by placing our affairs entirely too much in the hands of the P.M.A., and its probable result in ten years' time would be the destruction of the Equity Association, or its conversion into a paternalistic organization such as has been saddled upon actors in the vaudeville field. Now let me see—

"In the first part of the proposal they say: 'The Actors' Equity Association Committee having said that they would be in a temper to recommend to their council a reconsideration of their decision if their actors could be offered any definite advantage over persons not belonging to the Association.' Of course we never said anything of the kind. We said that we would submit to the Council any proposition they cared to make, not that we would recommend it. However, we let that pass. If their proposition were any good, we should worry about the preamble. Next paragraph:

" 'Upon motion of Mr. Shubert, it was decided first to collect from all actors not members of any actors' association, an amount of money equal to the Equity dues, to be turned over to any actors' charity agreed upon.'

"Of course their argument is that if actors have to pay the amount of the Equity dues anyhow, they will flock into the Association to get the benefits of it. But do you see the catch in it?—'to collect an amount equal to the Equity dues from all actors not members of *any actors' association?* This includes the Fidelity League or any other organization which the P.M.A. chooses to foster. Don't you see that under this arrangement, whenever the P.M.A. has a grievance against the Equity, whenever they think we've got something that they don't wish us to have, whenever they make up their minds that they are going to take away the rights that we have won, or whenever they think it would be better for them if the Equity didn't exist, they can begin a subtle system of discrimination and favoritism, so hard to put your finger on, and by paying the dues themselves, if necessary (which it would be good business for them to do), gradually, little by little, wean our members away, and enroll them in a paternalistic organization completely under their domination and control. I

beg of you not to assume for a moment that this is a chimera or a bugaboo of an overheated imagination. It is nothing of the kind. It is exactly what happened in Vaudeville, and it can happen with us."

At this point in Emerson's address the meeting, which had been gradually growing more excited as the potentialities of the propositions put forward by the Producing Managers' Association had been exposed, broke into the speech with violent and sustained applause. When a measure of quiet had been restored, Emerson continued:

"Now for the next paragraph: 'It was also offered by Mr. Shubert to give, in all the theatres of the United States, benefits on a one day's drive, for a sick benefit to be applied exclusively to the members of the Actors' Equity Association.'

"This also sounds lovely, but again there's a catch which I shall point out in a moment, if you haven't already spotted it. But I want you, just in passing, to notice one significant thing about this paragraph.

"One of the chief reasons why the Equity Shop is a necessity is that since the combination of the Shubert and Erlanger interests, there is no longer any competition in this country in the booking of theatres. The booking of theatres in this country is a practical monopoly, to all intents and purposes controlled by one man, and that man is Mr. Lee Shubert. In saying this I am not casting any aspersions upon Mr. Shubert. The situation would be just as dangerous if it were in the hands of Mr. Ziegfeld or Mr. Hammerstein, or anyone else. The menace is in the monopoly itself, not in who is running it. The sinister fact is that the business of booking the theatres of this country is now a monopoly, and those of us who remember the oppressions of the old Theatrical Syndicate will realize how much chance we have to combat the new one, unless we present an absolutely united front and are solidly entrenched behind it.

"Now, then, we have never been able to get Mr. Shubert to admit that he does control the theatres of this country, but here it is in black and white:

" 'It is also offered by Mr. Shubert to give in all the theatres of the United States benefits on a one day's drive for a sick benefit

to be applied exclusively to members of the Actors' Equity Association.'

"Now how can Mr. Shubert give benefits in all the theatres of the United States unless he controls those theatres? Obviously he can't. So here is an admission in black and white of the contention we have made for months, and which has, until now, been repeatedly denied. But this is en passant. Now for the catch in this paragraph.

"Of course the argument is that if Mr. Shubert gives a benefit once a year in all the theatres, the proceeds to be devoted to a sick benefit exclusively for members of the Actors' Equity Association, this will drive actors into our Association in order to get these benefits. All right. Let us assume for the moment that this might be true. What is to prevent his giving a similar series of benefits for the sick fund of the Fidelity League, or any other organization the P.M.A. may organize? This would, of course, destroy at one stroke the advantage of belonging to Equity in order to get the sick benefit.

"The benefit idea itself, is not a bad one. In fact, it originated in the brain of Frank Gillmore. But if we are going to have it, we must make jolly sure there is to be no rival organization fostered by the managers and aiming at our destruction, which shall have the same thing. Besides, when through the Equity Shop we bring into our coffers all the dues that these outsiders ought to be paying now, we can afford to have a sick benefit, and a death benefit of our own, if we want it, and run it ourselves without interference or control by the P.M.A.

EQUITY HOLDS OUT FOR EQUITY SHOP

"So this proposition, which was very cunningly worded, but not quite cunningly enough, was turned down by the Council, and the Committee was sent back for what proved to be our last meeting. This was on April 9, and the following communications were read to the Committee of the P.M.A.:

" 'It devolves upon this Committee to press upon the members of the P.M.A. the wisdom of giving serious and earnest consideration to the acceptance of the Equity Shop policy, accompanied by the positive guarantees of the A.E.A. that strikes will be avoided

by the acceptance of the principle of arbitration on both sides; that the A.E.A. will in no wise interfere in the matter of kind, quality or character of plays to be presented; nor with the casting thereof; nor with the remuneration to be paid its members; and that the A.E.A. will bind itself to keep its ranks open to any person whom any manager wishes to engage for a part in any production.

" 'We wish also to add that in addition to the guarantees which the A.E.A. is willing to give that these promises shall be carried out (namely changing of the constitution and a cash bond), we are now in a position to state that these guarantees will be underwritten by Mr. Hugh Frayne on behalf of the American Federation of Labor, and that Mr. Frayne has assured us that he will obtain the guarantee of Mr. Samuel Gompers.

" 'It seems to this Committee that a refusal of the P.M.A. to consider and discuss this proposition places the P.M.A. in an arbitrary and indefensible position, and we therefore, in the interests of peace and the well-being of the theatre, urge upon your committee the wisdom of recommending to the P.M.A. that they give earnest and sincere consideration to the proposition of the A.E.A. which is most earnestly and sincerely put forth by us.'

"Now I repeat that it seems as if any sane body of men ought to accept a proposition of that sort, but up to now they have, as a body, shown no evidence of doing so, though we have been assured by certain members of the P.M.A. that, so far as they are personally concerned, they are willing to accept our proposition and settle the matter at once.

"We can only hope that the leaven of good sense displayed by these men may spread until a controlling majority of the P.M.A. comes to their way of thinking. If this happens the thing can be settled without further trouble, and I cannot believe they can be so insane as to force the thing to an issue, when they haven't the faintest shadow of the ghost of a chance to win.

"But the thing for us to guard against most strenuously is allowing ourselves to be deceived. We must realize the fact that no matter how much we may think of individual members of the P.M.A., as an organization it is distinctly opposed to the interests of our Association, and not allow them to put over any other sort of propaganda.

"This is shown very distinctly by their attitude regarding the Sunday Bill, as in a dozen other ways, and we must not let ourselves be lulled into a false sense of security, for in that way surely and inevitably lies destruction.

"We must be firm, we must be united, we must stand as one man, if we hope to hold the benefits we have gained. And *above all things* we must keep our membership up to its present strength, and increase it, if we are to survive as a permanent organization, and neither your officials nor your Council have as yet had suggested to them any means of attaining this result, except through our Equity Shop policy. It is the one strong staff we have on which to lean. Take it away, and sooner or later we shall inevitably fall—keep it and we shall stand, strong and independent, upright and just." *

Emerson's address was given an ovation which ran, in major and minor cycles of enthusiasm, for nearly ten minutes. At its conclusion a resolution endorsing the action of the Council was proposed.

There was not even a whisper raised against it.[1]

But in part, too, the indignation of this most indignant Indignation Meeting was directed against the forces which had been aligned with the managers at Albany to put over the Levy-Flynn Bill. After an address by Peter J. Brady, Chairman of the Education Committee of the State Federation of Labor, in which Equity was offered the support of organized labor throughout the country in the event that it decided to organize thoroughly the vaudeville field as a retaliatory move, the following resolution was also unanimously adopted, with every evidence of enthusiasm:

"Whereas, we are credibly informed that Ex-Senator Henry Walters, who is known to be a legal representative of Mr. E. F. Albee, has injected himself into the affairs of the legitimate and musical comedy actors of America, by aligning himself with the Producing Managers' Association in trying to take from the members of the Actors' Equity Association their one day's rest in seven, and

"Whereas it is the belief of this meeting that vaudeville actors are as much opposed to working seven days a week as the actors in

* *Equity Magazine*, May, 1923, page 36 *et seq.*

other lines of work, were they in a position to enforce their desire, therefore be it

"Resolved, that this meeting urges upon the Equity Council the wisdom of an investigation into the conditions prevailing in the vaudeville field, with a view to the early organization of the vaudeville actors along the lines so successfully pursued by the Actors' Equity Association."

Other Officers and Councillors who spoke that afternoon were: Ethel Barrymore, Peggy Wood, Jane Cowl, Helen MacKellar, Frank Gillmore, and Francis Wilson.[2] It was after six o'clock when the meeting finally cooled off enough to adjourn.

THE P.M.A. RECEIVES THE NEWS

The managers' counter-offensive was cautiously launched with a feeler the next day, May 1. Choosing the *Telegraph* for their medium, "A Prominent Manager" was quoted as saying that if the Equity officials persisted in sticking for the closed shop (now the managers' unvarying description of Equity Shop), at the expiration of the contract in 1924, there would be only enough shows presented during the next season to fill the local theatres, and that virtually none of them would be scheduled for the road.

"Moreover," he added, "if there is another strike there won't be any work in the theatre for two years after that. That will not only affect the actors but the stage hands and musicians as well." *

This was a triple threat, calculated to make not alone the Equity but its labor allies stop, look and listen.

A surprising bit of gratuitous help for Equity's contention with regard to the financial aspect of Sunday shows was supplied by George M. Cohan, the same day.

"To my mind," said Cohan, "I think Sunday shows are bad for the legitimate theatre except in theatres where they already are established. I don't believe they would make four dollars difference on the season in New York, and further they would decrease the regular run of a show." *

The real drive of the Producing Managers' Association against Equity Shop was launched at its annual meeting on Friday, May 4, in the offices of the Association. That meeting found the

* *New York Morning Telegraph*, May 2, 1923.

managers a solid body for open shop in the theatre, as far as their productions were concerned. It witnessed the unanimous passage of a resolution which authorized the appointment of a "1924 Committee" to determine the policy of the P.M.A. with regard to Equity.[3]

Now, when the Producing Managers' Association announced that it had gone on record for the open shop, it did not mean that it intended to tear up the contracts its members held with members of the American Federation of Musicians, or with the I.A.T.S.E., and engage non-union stage hands and musicians. Quite to the contrary, the managers declared they were glad to have both those bodies organized, and that they had no quarrel with either. Nor did the P.M.A. even mean an entirely open shop for all actors, since its conference committees had repeatedly assured the Equity negotiators that it was willing to have Equity Shop imposed on all managements not in the Association. By open shop the managers meant only an open shop for actors in their own companies.

THE FATE OF THE AMERICAN NATIONAL THEATRE

The same meeting also faced another momentous decision. In its hands rested the fate of the American National Theatre. As had been forecast, the National Theatre had turned to classical sources for its initial production. It had finally settled upon Shakespeare's "As You Like It."

An imposing cast headed by Marjorie Rambeau, with fifty-seven players in support had been assembled for this effort, under the direction of Robert Milton.[4]

The première was held in Poli's Theatre, at Washington, on the evening of Monday, April 16. It was made an occasion of international significance, the diplomatic set was largely in evidence, and three hundred and sixty representatives of American and foreign newspapers attended. Mr. Thomas went down from New York, and the whole affair unfolded in a fanfare of trumpets.[5]

From Washington "As You Like It" came straight to New York, opening in the Forty-Fourth Street Theatre on Monday night, April 23, the three hundred and fifty-ninth anniversary of Shakespeare's birth.

Its reception was more than critical, and less than kindly. The critics liked very little about the production with the possible exception of the settings by Lee Simonson. And with surprising unanimity the theatre going public supported the critics.

"As You Like It" played to steadily diminishing business for the remainder of the week and was quietly withdrawn on the following Saturday night, after a run of one week in Washington, and one in New York.

Now this annual meeting was faced with the necessity of making a decision as to whether to go on with the American National Theatre or to let it rest in its grave. And, whatever the prestige of the movement, it had been a costly proposition. The National Theatre in its short life had already cost its sponsors between seventy-five and eighty thousand dollars. Although no announcement contradicted Mr. Thomas' statement that "As You Like It" would go on the road in the fall, and that "Twelfth Night" would then be produced, the meeting turned its thumbs down on the proposition, and the American National Theatre passed quietly out of the picture.[6]

But the results of this failure went further than the elimination of a managerial competitor to the Equity Players. The American National Theatre, with all its trappings of scholastic assistance and popular support through drama clubs and kindred organizations had been the first of Augustus Thomas' personal measures. Its complete and costly failure had struck a blow at his prestige in his own Association and never again, after that, was his judgment or authority given the same unquestioning and wholehearted obedience accorded him to this point. From that angle the failure of the American National Theatre had a real bearing on the history of the Actors' Equity Association.

COÖPERATION LOWERS THE TENSION

Otherwise, things were at a considerably lower tension for Equity. The Levy-Flynn Sunday Bill, which had caused so much uneasiness when passed by the Senate, was caught in the traffic jam of unfinished legislation in the Assembly, and was never even brought out on the floor of that body before the expiration of the session.[7]

The issue was not even to be fought out in the courts, for the Grand Jury which had been considering Brady's presentation of "La Flamme" in February, now declined to return an indictment, and that redoubtable warrior was not sure whether he was glad at having beaten the charge under which he had lain, or sorry at being deprived of an opportunity for another fight.[8]

And, though Equity and the managers had been at swords' points pretty consistently, they managed to get together occasionally as when, in late April, they combined to bring about the repeal of a ten per cent state tax on theatre tickets in South Carolina, a tax which had been added to the Federal tax of the same amount.[9]

Again they joined forces, if not hands, in preventing the passage of a bill in the Wisconsin Legislature which would have prohibited the appearance of children under fourteen years of age in any play, or under any safeguards. In this instance appeals were made both to the Wisconsin Legislature and to United States Senator Robert M. La Follette, whose daughter, Fola La Follette Middleton, a member of Equity in good standing, had helped to draft the existing regulations.

In the general confusion and excitement there was almost no mention of the fact that the new scale of initiation fees and dues which had been adopted by the general meeting of the previous September was made effective by the Council from May first.[10]

The only other occurrence of note during the month was another attempt on the part of the Dramatists' Guild to find a solution of the difficulties between the embattled actors and managers. On the thirtieth of the month, Owen Davis, speaking for the Guild, proposed that a Supreme Court of twelve, of which four were to be appointed by actors, managers and playwrights, should sit in judgment on all disputes which might arise.[11]

The proposition was endorsed by Gillmore in principle (a blessed phrase, the value of which has been insufficiently recognized since its first voicing during the quarrel between Woodrow Wilson and his Senate over the League of Nations), but Equity had already had demonstrated to it the feelings of the Dramatists' Guild with regard to Equity Shop, and had no intention of trusting its policy to such a court.

The Tenth Annual Meeting of the Actors' Equity Association

passed off quietly at the Hotel Astor on June 4. Emerson disposed of the rumors that Equity was regretting its precipitate action at the Hotel Plaza by announcing that the Association was absolutely united in its demand for the Equity Shop, and added: "We have not the slightest intention of backing down." [12]

EARL CARROLL'S CHALLENGE

Fulfillment of Emerson's prophecy was forthcoming in just one week, for at the end of that time Equity was up to its neck in a fight to enforce the Equity Shop Policy with Earl Carroll.

Carroll had been a familiar figure in the theatre for a dozen years or more. As a song writer and playwright he had established himself, and then he had decided to branch out into production.

The ambitious attempt, on which he was engaged at this time, was the first of his "Vanities," since become a hardy Broadway annual. It was to be a revue, largely the work of his own hands, and had as its stars Peggy Hopkins Joyce and Joe Cook, the latter of whom, together with several other recognized vaudeville acts, had been transplanted bodily from the two-a-day.

When he first set about gathering together the "Vanities" Carroll had notified Equity that it was to be practically a vaudeville performance against a background of chorus people, and had asked to be exempted from application of the Equity Shop policy. He was told that under those circumstances his principals would not have to join, but his chorus would have to be 100 per cent Equity.

As rehearsals progressed it became apparent that instead of a new design in amusement the "Vanities" would be really just another revue, and Carroll was then informed that the "Vanities" would have to be 100 per cent Equity. To this he replied that he would be entirely willing to permit his principals to join the Actors' Equity Association, if they chose, but that he would not force them into it against their wills.

When Carroll stood obstinately upon this decision Equity was forced to move quickly and vigorously. Obviously, having a fight over Equity Shop with the Producing Managers' Association in the offing, the Actors' Association could not endure a suc-

cessful challenge from an independent. Yet in this instance Equity was handicapped by the fact that the majority of the principals of the "Vanities" were not members of the Association, or particularly inclined to take sides against their employer.

Nevertheless, Equity made the most of the slender toe hold it possessed. On Monday, June 10, Walter Catlett, who had been engaged as director, and Ray Dooley and Gloria Foy of the principals walked out. The really damaging blow, however, was delivered by Dorothy Bryant of the Chorus Equity Association, at whose order the twelve chorus men who were to have been the background for Miss Joyce, followed Catlett, Miss Dooley and Miss Foy out of the theatre.[13] Equity pickets also made their appearance at the entrances of the Earl Carroll Theatre, and warned newcomers of the developments.[14]

The loss of the twelve chorus men was a real blow. Although, since the advent of "girl shows" chorus men had fallen more or less into popular disfavor, Carroll had selected this dozen with great care, and had been counting on the effects he had planned for and with them.

Carroll, finding himself in a real fight, cast about for replacements. Professional chorus men were out of the question. He could not hope to get really good ones who would be willing to go into his production against Equity's orders. There was a possibility that clever and docile amateurs could be brought up to the required pitch in the two or three short weeks which remained before the scheduled opening. And even if they failed, audiences would be much more lenient with them than if professionals should fall down on the job. So Carroll sent out a hurry call for college men, and shortly announced that he had recruited a male chorus from undergraduates of Columbia University.[15]

At the same time Carroll proclaimed his right to produce a 100 per cent non-Equity show if he chose, and demanded to know whether Equity would permit such a production without interference. By this he meant, undoubtedly, interference from stage hands and musicians, although he did not specify what sort of interference he feared. There was no reply from Equity to this except to call in the twelve chorus men who had walked out on him and give them pay for two weeks.[16]

Rehearsals for the production were continued, however, with that staunch enemy of Equity, William Collier, directing.[17]

During the remainder of the week individual missionary work among the principals and chorus girls won over to Equity all except a small group of perhaps half a dozen chorus girls who had grievances of one sort or another against the Association, or desired to demonstrate their personal loyalty to Carroll.

So the matter stood until June 24, when the "Vanities" star, Peggy Hopkins Joyce, made an address on the stage to the girls, telling them of the embarrassment they were causing Carroll, who also felt some degree of loyalty towards them, and urging them to sink their differences, come in to Equity and permit the opening of the production with the original cast.[18] The ringleaders of the revolt weakened under Miss Joyce's argument; two days later the chorus men, whose walkout had precipitated the impasse, were reëngaged by Carroll, and received an ovation from the company upon their return.[19] Earl Carroll's "Vanities of 1923" opened on July 5, a 100 per cent Equity organization.[20]

The Carroll incident was, perhaps, a minor skirmish in comparison with the heavy fighting against the Producing Managers' Association that year, but it was a very useful demonstration of the discipline and temper of the members of both Equity and the Chorus Equity under fire, and its effect was not lost upon those managers who were weighing the possibilities of a break with Equity in the following June. Certainly the members of the male chorus had acquitted themselves well in the emergency and had justified every expectation of their Association.

Chapter XXX

THE P.M.A. PROJECTS A CENTRAL TICKET AGENCY

The second personal measure of Augustus Thomas, which was now brought before the Producing Managers' Association, aimed at the elimination of ticket speculators through the establishment of a Central Ticket Agency under the control of the Association, or an agent designated by it, at which the public might buy tickets at box office rates, or a slight increase, sufficient only to defray its overhead.

There had been on the Statute Books of the State for more than a year the Walton-Smith Act which forbade the resale of theatre tickets at an advance of more than fifty cents over the price marked on its face, but this law had been paralyzed by court action practically from its passage, and pending final decision as to its constitutionality, was being disregarded right and left.

As early as June 12, 1923, it became known that the Producing Managers' Association was considering a plan for the establishment of a Central Ticket Agency, which had been submitted by Joe Leblang, proprietor of the cut-rate theatre ticket agency at Broadway and Forty-Third Street, in which the Shuberts were reputed to have an interest.

At the conclusion of the meeting on that day, Brock Pemberton, as spokesman for the managers, announced that although the meeting had voted unanimously in favor of establishing such an agency, discussion of the details of its operation had postponed a final decision until July 9, and had necessitated moving back the date of its establishment from July 1 to September 1.[1]

At that time it became known that Leblang had offered to underwrite the venture himself, but had asked for a five year contract. It was this latter request which had led to the defeat of his proposition, for certain of the managers feared that in that time he would build up a virtual dictatorship through his control of theatre tickets which would place it absolutely in his power to make or break any production.

Still another angle which had aroused opposition had been the proposal to allot ownership of the stock in the Central Ticket Agency to the managers on the basis of the seating capacity of the theatres under their control.

This plan would have given a majority of the stock, and hence the control of the agency, to the Shuberts and those who were allied with them through their booking office. It had sufficed to draw into a solid block a group composed of the Erlanger-Dillingham-Ziegfeld-Belasco and Charles Frohman, Inc., offices, whose votes had killed the proposition.

The managers then considered the expediency of drafting one of their own number to head the agency, or of bringing in some outsider (without Leblang's reported affiliations), but again, enough votes were mustered to down it.[2]

AND A SPLIT DEVELOPS IN THE P.M.A.

Then, out of a clear sky, following a meeting of the Central Ticket Agency Committee on July 23, came the announcement of the resignation of A. L. Erlanger from the Producing Managers' Association because of his opposition to the Agency. The resignation could not take effect for six months under the Constitution and By-Laws of the Association, but it was a great shock to the theatre at large to learn that feeling over the plan had reached such a height.

The same notice also declared that the remainder of the committee had been unanimously in favor of the Agency plan, and that it had been decided to sell tickets at a slight advance over the box office price to cover the operating expenses of the Agency.[3]

Apparently the resignation of Erlanger had cleared the ground, in the opinion of the Central Ticket Agency Committee, for on July 24 the Committee executed an about face by accepting, practically in its entirety, the Leblang Plan, which it had turned down less than two weeks before. Its acceptance was reported to be unanimous.

The Agency, Leblang let it be known, would be under his absolute control. If there were to be any other brokers, a contingency not yet decided, they would be licensed by him and responsible to him. The cut rate which had been the feature of his

private business, would be retained although cut rates would not obtain simultaneously with a box office sale at face value, as does occur at the present time.

"The Central Ticket Agency will have a central location, but there will be many branch offices scattered about the city, and in all suburbs and towns within a radius of twenty miles of New York," said Leblang. "I want to make the purchase of theatre tickets as easy and attended with as little uncertainty, as railroad tickets. There will be no charge on tickets costing $2 or less, with a surcharge up to ten per cent of the price of the expensive seats, to take care of the overhead." [4]

The Committee had reversed itself again in deciding that the cost of initiating the Agency should be met by the issue of stock to be apportioned on the basis of the seating capacity of the theatres represented.

In fact, the Committee, within one day of the resignation of Erlanger, had passed favorably on every point of a plan which had been defeated less than two weeks before. With Leblang in charge, the Shuberts seemingly had scored a victory which left them in complete command of the Producing Managers' Association.

But the victory, if victory it was, had been won at a cost greater than the loss of A. L. Erlanger, severe as that might prove to be. There were others in the Association to whom certain of the provisions of this Agency gave an acute pain.

Florenz Ziegfeld in particular was furious at the thought of officially recognizing the cut rate business. None of his productions had ever sought the assistance of that device and it outraged his sense of showmanship to think that it would be incorporated in the Central Ticket Agency. Besides which Ziegfeld had long been a partner of Erlanger and had always tended to go along with Erlanger on questions of policy.

Accordingly, scarcely had the dust and splinters of the Erlanger resignation settled on Broadway and Forty-Second Street when Ziegfeld proclaimed his intention of following him out of the Producing Managers' Association.

P.M.A. DESERTERS TO BE THROWN TO THE LIONS

The remainder of the Producing Managers' Association, or at any rate the preponderant faction, was furious at the defection of Messrs. Erlanger and Ziegfeld and moved to snatch from them, if possible, the cloak of protection from Equity Shop which they might have expected to wear for another six months.

In short, on the day after Ziegfeld had said he would resign, or on July 26, Brady announced his intention of calling a meeting of the Producing Managers' Association at which he said he intended to prefer a demand for a meeting in twenty days time to consider an amendment to the Constitution and By-Laws of the Association which would permit the immediate acceptance of any resignation offered in the future.

Brady admitted that this revision of the Constitution and By-Laws would not affect Erlanger's resignation, which was already in, but that it would burn Ziegfeld, who had written out but had not submitted his resignation, and would sear any of those in sympathy with these two who might demonstrate that sympathy by resigning, or going through the motions of resigning.

The date of this meeting was set by Sam Harris as August 22. In the meantime Herndon, who had been named by Ziegfeld as being in sympathy with him to the point of resigning, if necessary, ducked making a decision and declined to commit himself to any course of action. No word could be gotten out of either the Dillingham, Belasco, Frohman, Cohan, or other offices as to what their intentions were, but it was quite apparent that the Producing Managers' Association was not at unity with itself and was rapidly developing symptoms of even more serious trouble.[5]

Ziegfeld withheld his resignation for a week, in order to give the Producing Managers' Association chance to back down on its plan. Finding that, far from backing down, the P.M.A. was planning to disown him forthwith, Ziegfeld shot it into the office of the Association on August 2.

"I have no fear of unfair treatment at the hands of Equity," Ziegfeld said when he was asked how it would seem to be classed as an Independent ten months before the expiration of the Basic Agreement, "which organization was formed to protect actors against those who, I believe, are responsible for trying to force

the Producing Managers' Association into the ticket brokerage business, full well knowing that there is no possible chance of benefiting or protecting the theatre-going public, and are doing so solely for their own benefit.

"I don't realize now why I ever signed any agreement as a member of any Association to protect myself against the actors as I never had any trouble with any of them at any time during my long association in the theatre.*

This was very handsome of Ziegfeld, although his memory was shorter than his association with the theatre. Nevertheless, he was all friendliness towards Equity now, and was confident that it would not allow itself to be used as a club to keep him in line at this time.

As a matter of fact the Actors' Equity Association had given careful consideration to its course in case the Producing Managers' Association should carry out its threat, and had come to the conclusion that it did not desire the temporary gain which might be culled from the application of the Equity Shop Policy to managers who resigned from their organization, particularly if that gain could only be at the expense of good will.

So on August 7, Grant Stewart announced for Equity that:

"Any contract entered into in good faith by a manager while a member of the Producing Managers' Association will be respected by Equity. The Actors' Equity Association has no intention of playing the game for or against any manager or group of managers."

That ruling would hold for all existing contracts, said Stewart; if any new contracts were to be entered into, which was not anticipated, they would have to be reviewed separately by the Equity Council.†

COLLAPSE OF THE CENTRAL TICKET AGENCY

When the Producing Managers' Association met on August 22, Erlanger and Ziegfeld were not made to walk the plank. It became evident that there was sufficient support for their position to split the Producing Managers' Association wide open if that course were insisted upon.

* *New York Morning Telegraph*, August 3, 1923.
† *Ibid.*, August 8, 1923.

Instead of throwing Erlanger and Ziegfeld overboard the P.M.A. jettisoned Joe Leblang and the Central Ticket Agency. Leblang had not had a contract, anyway, having gone ahead with his plans on the information from Brady's committee that he had been selected for the job. From the beginning Leblang had insisted that unless he had the support of at least two-thirds of the members of the Association he would decline to assume the responsibilities of the place.

Nothing was done about Brady's proposition to change the Constitution and By-Laws to provide for the immediate acceptance of resignations. Technically this could not be done at the meeting because the three-fourths attendance required by law was not forthcoming. Actually the opposition had grown too strong to make it practical.*

Although Brady hopefully announced on the day after the meeting, that his committee would continue to function in spite of the collapse of the Leblang plan, the Central Ticket Agency was at that moment completely and irrevocably dead.[6]

The collapse of this scheme, and above all the manner in which it collapsed, exercised a tremendous influence on the strategy of the campaign which was about to be waged by Equity.

For the second consecutive time a plan near and dear to the heart of Augustus Thomas, and which he had made his program for the Producing Managers' Association, had gone wrong, alienating from him the respect and support of its members.

But far more important than that, the growing entente between the Erlanger and Shubert offices, which had been such a source of disquietude to Equity since the beginning of the year, had been rudely halted, and instead of a united Producing Managers' Association, functioning under one command, whosoever that might have been, the Association had once more become divided into two irreconcilably hostile camps, each of which feared and distrusted the other, and was more concerned with preventing the other from gaining an unshared advantage than with winning the contest as a whole.

* *New York Morning Telegraph*, August 23, 1923.

Chapter XXXI

THE BEGINNING OF THE END

The big break in the campaign, of which Equity had been hopeful rather than confident, came within the next week. Somewhat earlier in the season "The Whole Town's Talking," a play written by John Emerson in collaboration with Anita Loos, his wife, had been produced by A. H. Woods, in the Bijou Theatre, a Shubert house. Emerson had retained an interest in the production, and on September 10 he was in the Shubert offices on business connected with his play. There he was greeted by Lee Shubert, who invited him into his office.

"When are we going to get together on this contract for 1924?" Shubert inquired.

"We are always ready to get together whenever you want," Emerson replied.

"Well, we don't want any trouble," Shubert offered.

"We don't want any, either—so let's get together."

"I would like to have you and Mr. Gillmore meet me and some of the other members of our Association, whatever members I can get together, and talk the thing over and see if we can't get somewhere," Shubert proposed.

"Fine," was Emerson's instant and hearty reply. "Glad to do it any time." And the bargain was struck.*

At this time Gillmore was just about to set out as delegate from the Associated Actors and Artistes of America to the Convention of the American Federation of Labor which was to meet in Portland, Oregon, somewhat later. But he had planned to inspect some of Equity's outposts on the way, and was scheduled to leave on the day following this interview.

But as soon as Emerson communicated the import of his conference with Lee Shubert, Gillmore realized that his presence was imperatively needed in New York. So, somewhat to his surprise,

* *Equity Magazine*, November, 1923, page 12.

Harry Mountford was appointed delegate of the Four A's in Gillmore's place, and Gillmore turned all his energies to the negotiations.

In the negotiations which followed Gillmore, because of his record in 1919 and Equity's confidence in his strategic ability, was, naturally, the dominant figure from the actors' side. But Emerson was by no means a negligible, nor even a minor figure. If it was Gillmore who visioned the broad lines of the campaign, it was Emerson who saw the practical details of their operation, and whose ability as a speaker swayed Equity general meetings. They were, in fact, two practical equals in their work, and willing to have it so. In this camp there was no contention for supremacy—no rivalry for credit.

In an effort to keep the conferences a secret, at least during their preliminary stages, the managers proposed, and Equity's representatives accepted the proposal, that the meetings should not be held in any of the offices of the participants, but on neutral ground, as it were.

Accordingly, it was to the Ritz Hotel at Forty-Sixth Street and Madison Avenue, New York City, that Emerson and Gillmore repaired on the evening of September 18. There they found that Shubert was accompanied by William A. Brady.

From the first Shubert made it clear that he was not there in any official capacity, but that, personally, he wanted to find out what Equity's minimum terms were, and he was confident that his sentiments were shared by a ponderable proportion of the Producing Managers' Association.

Shubert and Brady were willing to concede the application of Equity Shop at the beginning. Indeed, without that understanding, the renewal of negotiations would not have been possible.*

In return for that concession they wanted a ten year contract, with the four guarantees which Equity had offered in the spring (an open union; no raise in initiation fees; non-interference with casting, lines or direction; and a promise not to attempt to dictate as to salaries). Shubert was also very anxious to have Equity promise that its members would then play only in companies controlled by members of the Producing Managers' Association, although he stated that there would probably be some managers

* *Equity Magazine,* November, 1923, page 12.

who would not be voted in, and that with regard to those managers Equity could pursue any policy it might see fit.

The managers were also pretty definitely committed to a protection of the members of the Actors' Fidelity League who might now, under a complete Equity Shop, be driven into Equity or compelled to leave the stage if that was too distasteful.

Now here was something which Equity's negotiators realized would be a bitter pill for the majority of their membership. The feeling against Fidelity was still high, and any such agreement might be construed as an official recognition of this company union—a recognition which Equity had always steadfastly refused, hitherto.

But Gillmore and Emerson understood the sentimental appeal which this point would have with many of the managers, and the publicity that might be made the spectacle of certain eminent stars having to choose between their principles and their bread and butter; and they did not want to put this weapon in the managers' hands. Still less, however, did they want the Fidelity League perpetuated as a rallying point for malcontents from Equity, or as a potential threat for the future.

So they accepted a provisional exemption of those members of the Actors' Fidelity League who were in good standing in the organization *on September 1, 1923*. By stipulating a date prior to the beginning of negotiations they had shut the door to a last minute wild rush to join Fidelity and gain exemption which might otherwise ensue when the terms were made public. And to make sure that all those who claimed exemption because of that membership had actually been in good standing on that date, it was further provided that the books of the Fidelity League were to be opened to the auditors of Fidelity and Equity, and that only those members of Fidelity whose good standing on September 1, 1923, should be certified to by those auditors should be accepted as exempt. If any members of that organization had not been sufficiently interested in it to maintain their good standing when there was nothing at stake but a principle, they need not claim the exemption to which devotion to that principle entitled them.[1]

By these terms Equity had not insisted on the dissolution of Fidelity, but it had provided that, except in certain specific in-

stances, such membership should not carry with it an excuse from the operation of Equity Shop.

A final major request of the managers, that is Shubert and Brady, was the continuation of the clause in the old Basic Agreement which forbade sympathetic strikes on the part of the actor in case of trouble with other sections of theatrical labor.

Before giving their assent to this request Equity's negotiators consulted with William Canavan, Fred Dempsey and Richard Green of the International Alliance of Theatrical Stage Employes, and Tom Gamble, Assistant to Joseph N. Weber, President of the American Federation of Musicians. This latter officer was ill at San Diego, California, and could not be reached at the time.

To these representatives of their theatrical allies Gillmore and Emerson reported that by giving this guarantee against a sympathetic strike they thought they could obtain, without a fight, a contract which would vastly strengthen their hands. But, they said, they did not want to undertake any such commitment until they learned how the stage hands and musicians would feel about it.

"Go ahead," was the reply. "Only promise that you won't turn strike breakers in case of trouble."

So back went Emerson and Gillmore with the reply that they would give this guarantee, with the understanding that in case of trouble Equity members were not to be expected to touch a bit of scenery, or to go into the orchestra pits.*

Equity, on its part, was most concerned with getting Equity Shop, and that without another strike, but there were minor suggestions it had to offer in the redrafting of the Basic Agreement and the preparation of a new standard contract.

Equity asked, for instance, that in the case of dramatic productions the probationary period be cut from ten days to seven, although in musical productions it might remain at ten.

There were also propositions by which each company which played as much as twenty weeks in a season should give a benefit performance for a sick and death fund for Equity.[2] And Gillmore urged the institution of triplicate contracts, one copy of which was to be on file at Equity Headquarters. But these were

* *Equity Magazine,* November, 1923, page 16.

minor considerations. Equity was chiefly concerned with Equity Shop.

The utmost friendliness prevailed among the negotiators at this meeting. When they separated to lay their propositions before their respective Executive Committees, it was felt that an agreement substantially along these lines might be expected.[3]

The conferences which were necessitated by this meeting were spread over a period of two or three weeks during which the negotiators did not meet as a committee, but in which, through individual meetings, both sides were kept in close touch with developments.

Then it was felt that enough ground had been cleared to warrant another meeting. This time the meeting was held in the Hotel Astor, and the managers' committee had been enlarged by the addition of L. Lawrence Weber and Winthrop Ames.

To this meeting Emerson and Gillmore reported that they wished to withdraw the proposition of triplicate contracts. So much opposition to this plan had developed in the Equity Council that although the managers had seemed willing to concede it, the Equity representatives did not feel justified in pressing it. Otherwise, the proposals and counter-proposals stood as they had at the conclusion of the previous meeting.

The new blood which had been injected into the proceedings by the managers proceeded to make itself felt in no uncertain manner. This meeting lasted from seven in the evening until one o'clock the next morning, and at that time the atmosphere was so clogged with arguments and issues never hitherto raised, that about one o'clock Equity's officers felt justified in saying, "What's the use of going on like this?" and called the meeting off.

It seemed that the negotiations which had opened so promisingly had fallen through completely, and that nothing remained but to prepare for a battle in 1924. This conviction was strengthened when Shubert later informed Equity that the proposals in which he had been most interested had been put up to the Executive Committee of the Producing Managers' Association, and had been turned down.[4]

THE ATLANTIC CITY AGREEMENT

But in the midst of these preparations there came an unexpected call from L. Lawrence Weber and Lee Shubert who declared that they had evolved a new plan which they thought might succeed where the old plan had failed, and one which, if it was acceptable to Equity, they thought they could persuade the Producing Managers' Association to adopt. This proposition and the negotiations to which it led were later described by Emerson to an Equity General Meeting as follows:

"They suggested that Mr. Gillmore and myself go out of town with them on Friday, October 25th, so that we could be free from all interruptions and attend strictly to the business in hand.

"But we felt that before going the entire negotiations so far as they had proceeded, should be laid before our Council, and we should ascertain if we had their authority to proceed further.

"At a meeting of the Council it was felt that perhaps some good might come from such a protracted conference as was proposed, so the Council authorized us to proceed as far as possible, and try to draw up some sort of definite basis on which to work.

"In the three hours' ride they laid the plan they had evolved before us, and I must say that it appealed to us as having some pretty sound sense and merit, and it seemed really quite possible that it would lead to some sort of basis.

"At Atlantic City we parted from them and agreed to meet them the next day at twelve o'clock.

"We met again at twelve o'clock the next day and that session lasted until six o'clock. Discussion—talk—talk—battle—talk—talk—discussion, and finally agreement.

"We went out and got some dinner and came back at eight o'clock and stayed until one o'clock in the morning. Discussion—talk—talk—battle—discussion—talk—talk, and finally more agreements, and so on.

"Atlantic City certainly has some very fine hotels. The meals are good, and the rooms warm and all that. I imagine the air there is very fine, too, I've heard it was, but I really do not know myself, as I didn't get any of it.

"Well, we finished our conferences on Sunday (October 27), at 3:35 in the afternoon, and got the four o'clock train for New

York, with the tentative agreements in our pockets, which seemed to Mr. Gillmore and myself worthy of the most serious consideration.

"On Monday we submitted this agreement to the members of our Executive Committee and asked them to find holes in it. They talked it over very thoroughly for a couple of hours, and it seemed to hold water, and they thought it was pretty O.K.

"On Tuesday it was submitted to the entire Council with an urgent request that they pick it to pieces. They examined it with great care and after some two hours' debate, voted unanimously to approve it and place it before a general meeting of the members for their consideration."*

The date of this general meeting was set for Sunday, November 4. But in the meantime events occurred which more or less nullified any action that meeting might take.

As soon as the conferees returned from Atlantic City the rough draft of the agreement which had been drawn, more with an idea of reaching an understanding as to terms than as a legal document, was submitted to Paul N. Turner and Justus Sheffield. They immediately put their fingers on the clause in which Equity had promised to draw all managers into the Producing Managers' Association by promising to play only in companies whose managers were members of the P.M.A.

"Here," said Turner and Sheffield, "you can't promise anything like that. It would be a conspiracy in the eyes of the law, no matter how benevolent your intentions were." So the Producing Managers' Association was notified that that clause was out. For the rest, the agreement was approved by the Equity Council substantially as Shubert and Brady had proposed at the first meeting.†

THE P.M.A. DISOWNS ITS COMMITTEE

But when the Producing Managers' Association met on Friday, November 2, to hear Shubert and Weber report, they were aghast at what had been promised even tentatively. There was a steamy session which lasted for several hours, and then the pro-

* *Equity Magazine*, November, 1923, page 13 *et seq.*
† *Ibid.*, page 11.

posed agreement was voted down, with just two votes in its favor, presumably those of Shubert and Weber, who had negotiated it.

Equity, nevertheless, went through with the meeting which had been called for the following Sunday, and in the neighborhood of 1,500 members turned out to hear the terms read, and explained by Emerson, Gillmore and Turner.[5]

It was a turbulent and exacting meeting which wanted to be sure that it understood precisely what each term meant and how it would affect any given situation of which some member could think, and it required a very great deal of explanation and elucidation. Finally, however, it passed the resolution presented from the floor by Dodson Mitchell which read:

"That this meeting endorses the report of our representatives, Messrs. Emerson and Gillmore, who have been working in conjunction with Lee Shubert and others, to prepare a basis of settlement of the existing controversy between the Producing Managers' Association and the Actors' Equity Association, and it also endorses the action of the Council in approving of the same.

"This meeting authorizes the Council to reach an agreement based in essential details upon the report to this meeting. We suggest that the present basis of adjustment be kept open for no longer than three weeks, after which time, if further negotiations are again proposed by the P.M.A. the Council may feel that it is not bound to any concessions that have been made in the report under advisement." [6]

This, of course, was an intimation to the Producing Managers' Association that unless it acted within the time limit prescribed, it might expect to have to meet still stiffer terms.

THE FIGHT FOR PAY OVER BROADCASTING

With the prospects for a fight over contract renewal so excellent, Equity found itself with yet another battle on its hands: this time a showdown over radio broadcasting.

This activity first claimed attention as a problem for the consideration of the Association in April, 1922. Until the World War wireless telegraphy had been almost entirely a commercial proposition and had been carried on largely by code. The necessities of warfare had induced an intensive study of the conditions

governing both broadcasting and reception, and the inventions which followed now made it possible to bring this invention into the home of the average man.

But to make it a successful commercial proposition manufacturers of radio devices discovered that they would also have to sell entertainment with their instruments. They discovered, very quickly, too, that what people most wanted was amusement. They turned to the stage to secure it.

The lure which persuaded the first radio entertainers to donate their services was: "Think of the advertising this is giving you. Half a million people will be listening to you, and will remember you." It is a lure which is still in use.

Pretty generally the people of the stage responded to this invitation to broaden their circle of friends and admirers and appeared before the microphone singly and by companies. The broadcasting of songs, scenes and whole plays became a commonplace.

The theatrical managers sensing the value of this free advertising of their wares soon fell into the habit of requiring it upon all occasions. Individual members and whole companies were requested to appear at broadcasting stations for special performances after the show, for special matinées, or on Sundays. It became finally, with some managers, a matter of the actors giving one performance free each week, performances from which the broadcasters and the companies were receiving profits either directly or indirectly, but from which the actor was getting no demonstrable benefit. And the practice was on the increase.

Following complaints to the Council, Dullzell issued a preliminary warning on the subject in an interview with a reporter from the *Morning Telegraph.*

"The General Electric Company and the Westinghouse people have been getting in on a lot of good stuff for nothing," he declared. "Also the general electrical appliance houses. We are going to issue a ruling soon that when artists engage their services for radio work they should be compensated. It will be pointed out that the radio concerts are a money making scheme." *

The Council did take the action predicted by Dullzell early in April, and by that ruling Equity became the first organization to

* *New York Morning Telegraph,* March 10, 1922.

take up the fight for compensation of radio entertainers. It *was* a fight, for the whole weight of the influence of the broadcasters and many of the managers was thrown into the scales against the stand. Equity's position was not a comfortable one, nor was it generally understood at the time, but the later successful effort of the composers to obtain compensation for the use of their material sprang from, and may be traced to, the position taken by Equity on broadcasting at this time. But that resolution was merely an expression of policy and was not mandatory. It applied, moreover, to individuals and not to companies. But further complaints from members alleged that some managers were beginning to apply pressure on those who followed the Council's suggestion. These letters suggested that payment for broadcasting be made compulsory, and that the ruling be made applicable to companies.

The showdown in this matter came with the "Thank U" company in Boston. During the week of October 14 (1923), a call was placed on the board of the theatre at which the company was playing, notifying the members of the cast to report at a Shepherd Store on Sunday night, October 21, at eight-thirty to give a performance of their production which would be broadcast from the store.

At the request of the company the Deputy immediately got in touch with Equity Headquarters in New York, and the Executive Secretary took the matter up with the producer of the play, John Golden.

During his conversation with Golden, Gillmore remarked that, no doubt, Golden intended to pay each of his actors one-eighth of his week's salary extra for that performance. That had not been Golden's idea, evidently, for subsequent to that conversation the scheduled broadcasting was called off.

But the management of the store, or of the production, did not let it go at that. Three times during the Sunday on which the broadcasting was to have occurred, notices went out over the air that although all the actors had volunteered their services for the entertainment they had been forbidden to render them by the Actors' Equity Association.*

This announcement, and the comments which followed it in

* *Equity Magazine*, November, 1923, page 31.

the press of the country, gave the impression that Equity had declared war on radio, and that it meant to forbid its members broadcasting at any time and under any circumstances. Thus was created a general belief that Equity felt radio was a menace to the theatre, which had to be beaten down before it grew great enough to swallow the legitimate stage—and that impression exists in some quarters still.

ONCE MORE THE DRAMATISTS' GUILD INTERFERES

While the Producing Managers' Association was endeavoring to decide just what its intentions were with regard to the three weeks' limit set by Equity for the acceptance of the conditions of the tentative contract negotiated at Atlantic City, the Dramatists' Guild, as it had done before, hurled itself into the breach. This time Owen Davis, in an interview with the Associated Press in New York on November 10 declared:

"We who are the backbone and the brains of the American stage, go unnoticed, while actors and managers struggle for the control of the theatre, and while the stage is permitted to give the public only a fraction of the beauty and artistry it might give if directed by persons of wider horizon and greater intelligence.

"Therefore the American Dramatists have been driven to take an aggressive position, to demand one-third voice in the theatre, to demand that excellence of the theatre rather than control of it be the most important object for all of us, managers, actors and authors.

"Let all the differences of opinions among authors, actors and managers over ethics, business and other matters be submitted to a jury composed of an equal number of each group. This jury could be able to make and enforce its decisions through a sort of boycott system. If an actor, manager, or author refuses to abide by a decision he will be boycotted by all the rest."

On November 14 Gillmore wrote to Davis protesting against his interpretation of the situation and reminding him:

"I recall your promise made at our meeting last spring that no matter how the negotiations went, you would take no hand in any fight against the actors. Since then your statements to the press have hardly appeared, to me, within the spirit of that promise.

"Why should we not negotiate with the men who pay us our salaries? There is nothing in the proposed agreement to hurt the dramatists, indeed it contains binding provisions protecting them from the evils which, quite unnecessarily, they feared." (A possible attempt by Equity to interfere with the lines, casting or direction of plays.)

"If the dramatists wished to make a contract with the producers they would do it (as in the past), with no interference from Equity. Since the friendly hand extended to your Association on more than one occasion has been refused we can only follow our individual paths.

"To expect that Equity would consent to a governing board of three managers, three authors and three actors as *The Tribune* quotes you as desiring, is unreasonable. You admitted to us that after signing a contract the author became a partner of the manager, therefore the actors on such a board would be outvoted two to one.

"Incidentally, we actors are not prepared to admit your claim, that the dramatists are 'the backbone and brains of the American stage.' We think the actors are a part of its backbone and its brains, and we think the directors should be credited with at least one vertebra and one gyrus." *

But Davis was still morosely skeptical of the reply for the next day he answered Gillmore, saying:

"I said I would not fight with the P.M.A. against you, and I won't. I would fight against both of you for a fair place in the sun for authors but it would be a hopeless fight.

"If ever there comes a new lineup just of the men who love the art,—actor, author, manager,—I'll fight on that side. At several meetings, one only yesterday, I have said exactly what I have said to you—as between you and the P.M.A., I could not fight you.

"I do not like your Equity Shop, but I like the P.M.A. still less. At least I do respect you. I wish I could see as you see, but we work at different trades." †

* Author's Note.—A gyrus, it may be remarked for the benefit of those who are not so well posted on anatomy as Gillmore appears to be, is a single convolution of the brain.

† *Equity Magazine*, December, 1923, page 29.

Chapter XXXII

CLEAVAGE IN THE P.M.A.

When the managers on the Steering Committee, to which the Equity-Shubert-Weber plan was officially referred, did get together in their office on November 12 to consider either the Plan, or some substitute for it, there was a stormy session, but no agreement. Instead, at that meeting, there were signs of a definite cleavage in the ranks of the producers.

In general that cleavage was between those who were essentially theatre owners, and who had to keep their houses in operation or suffer great and growing losses, and the producers, pure and simple, who could suspend their productions with a minimum of loss.

It was unfortunate that this situation was also complicated by the greatest theatrical rivalry of the modern American theatre, with all the jealousies and suspicions which were incident to it. For the leader of the theatre owners was Lee Shubert, while the tradition and heritage of the old Theatrical Syndicate had descended to A. L. Erlanger—the Montagues and Capulets of the theatre in this country. Quite apart from the contracts negotiated or to be negotiated, was the feeling held by Erlanger and his friends that anything endorsed by the Shuberts was to be regarded in the light of potential dynamite; while those whose interests were with the Shuberts were equally resentful of the claims to leadership of the Producing Managers' Association which were put forward by and for Erlanger.

As reported by the *Morning World* those managers who, at that meeting, had been inclined to side with Shubert and hence were more or less in favor of the Equity Shop Plan, were L. Lawrence Weber, William Harris, Jr., Edgar Selwyn, Charles Dillingham and William A. Brady. Siding with Erlanger and against the plan, were Charles Frohman, Inc. (Gilbert Miller), Henry Miller, David Belasco, Brock Pemberton, John Golden, Henry W. Savage, George Tyler, Arthur Hopkins, Winthrop

Ames, George M. Cohan and Sam H. Harris. The position of others who were not there was not reported.*

At that time, also, it was first intimated that a prolongation of the deadlock which existed at the moment, would see the Shubert faction willing to make a separate peace with Equity in order to keep its productions open.

A couple of days later the *Morning Telegraph* printed an article in which on advices emanating from "one of the local managerial offices," there was a startling story that a clause in the proposed contract was exciting dissatisfaction—in the ranks of the actors' organization. As the story had been told to the *Telegraph,* a local department store, approached by an actor who wanted a charge account, had called upon his manager to guarantee it, on the grounds that if the players' association was unwilling to trust him to pay his bills (his dues), why should the store do it?

"The case, it was reported on good authority, was finally adjusted satisfactorily, but it serves as an example of what several of the actors are likely to find themselves up against. In the establishment of a collection policy at the source the Equity will make no exceptions and thus many of its members, well supplied in worldly goods, are beginning to feel a bit embarrassed over the prospect of having a comparatively infinitesimal sum deducted from their salary envelopes as dues to their organization.

"This objection which became known yesterday and which, as yet, is only unofficially voiced, comes direct from the Equity personnel and has no connection with the issues now before the managers, all of whom have agreed to see to the collection of the Equity dues as provided for in the impending contract." †

This rumor was at once hotly denied by Gillmore. Writing to the Editor of the *Telegraph* on the day on which the story appeared, he declared:

"At a meeting held with the committee of the managers nine months ago, they, themselves, suggested something of the kind, but we received it coldly.

"We trust that you will make it quite clear that there is no thought of 'the establishment of a collection policy at the source.'" ‡

* *New York Morning World,* November 13, 1923.
† *New York Morning Telegraph,* November 14, 1923.
‡ *Ibid.,* November 15, 1923.

This was just another of a long line of attempts to make the highly paid and well to do members of the Actors' Equity Association feel that their interests would be hurt by the institution of Equity Shop, and to persuade them to oppose their influence to it in the Council of the Association. Like the stories of the third actors' association headed by George M. Cohan, which had been spread about in 1921, this story, purporting to reflect the sentiments of the rank and file of Equity members, did not have its origin in the clubs and other places where the actors gathered, but came to the newspapers through a manager's office, and was strictly managerial propaganda.

The Steering Committee of the Producing Managers' Association having failed to reach an agreement as to the proposed contract with Equity, even among its own members, now sent out a call for a general meeting of the entire Association for November 23.

ENTER THE ROUND ROBINS

But on the twenty-first an unofficial but most important meeting of the opponents of that measure was held in the office of Sam Harris. Already it was known that approximately twenty-five producers in this group had signed a Round Robin, or pledge, among themselves, promising to act as a unit in any proceedings of that body; and although the text of that pledge was not available until later, there was no secret as to the light in which these managers regarded Equity Shop.[1]

In assembling and organizing the group the opponents of Equity Shop felt that they had, indeed, executed a coup. At its previous Annual Meeting the Association had gone on record as unanimously opposed to Equity Shop. The Constitution and By-Laws of the Producing Managers' Association required a three-fourths vote to reverse a policy adopted in this manner. But if this group of twenty-five or so could be held together it would be impossible to muster a three-fourths majority for any other policy. A mere majority would not be sufficient. So long, then, as this Round Robin Group, as it became subsequently known, could be held together, it would hold the balance of power in the Association.

It was announced by *Variety,* following this meeting, that a petition of Equity members who did not like Equity Shop had

been presented to this conference praying that it should not abandon its fight for the Open Shop in the theatre.

No names of signers of this petition were given out, a circumstance which materially weakened its value.

And for a last shot at Equity, *Variety* declared that "Another source, alleged to come from an Equity official, places the delinquents at 9,000." * This, in an organization of little more than 10,000 members, would be pretty serious.

While the Round Robin managers had been more vocal and had received far more attention than those who favored Equity Shop, Equity was not entirely without friends among the managers. Arthur Hammerstein, himself a member of the Steering Committee, who had come down from Boston where a new production, "Mary Jane McKane," was then playing, to attend a meeting of that Committee on the twentieth, only to find it cancelled, spoke his mind to a *Morning Telegraph* reporter.

"I am for Equity. After long and deliberate communing on the subject I am thoroughly convinced this is the right road to better show business. I don't want to see again the abhorrent conditions of the past when a musical comedy would rehearse for four or five weeks, open out of town somewhere and close the next night, leaving the actors without salary—starving, and without hope.

"No, sir, that sort of thing isn't fair. It isn't decent and it isn't right. And it should not obtain any longer." †

MRS. FISKE PROTESTS

About forty members of the Producing Managers' Association turned out for the meeting on the twenty-third. Interest in its decision was heightened by the fact that the three weeks stipulated by the Equity meeting on November 4 was almost up. Yet, after a brief but heated session behind closed doors, the managers adjourned without having taken any action, and with the word only that a legal obstacle had appeared which made decision impossible at the moment. The reporters who sought further facts were referred to Ben Roeder, general manager for David Belasco, who issued the statement for the Association through the press depart-

* *Variety*, November 22, 1923.
† *New York Morning Telegraph*, November 21, 1923.

ment of the Belasco office, and accompanied it with copies of a letter which had been written to the Producing Managers' Association by Minnie Maddern Fiske, Belasco star, submitted to the Association that afternoon by Roeder himself. It did not refer to any legal question, save by calling attention to the plight of loyal members of the Actors' Fidelity League and other conscientious objectors to union labor, but coming from Minnie Maddern Fiske, and pitched in such an emotional key it could hardly have failed to influence the considerations of the managers. Addressed to Augustus Thomas, and dated the same day, Mrs. Fiske had written, in part:

"I have learned that the new working agreement that was endorsed by the Actors' Equity Association is to come before the Producing Managers' Association for final acceptance on Friday. Probably there has never been a matter of such vital importance as this to the theatre and its people, and the decision involves a grave responsibility. Apart from its economic aspects the outcome profoundly concerns the dignity, independence and progress of the American stage. As one whose life since early childhood has been passed in the theatre, may I be permitted to submit my views on this subject while it is still under deliberation?

"In my youth there prevailed a well-nigh universal spirit regarding the actor's responsibilities toward his calling. Our leaders in establishing and developing our theatre had transplanted in this country the fine traditions of the old country. The heritage that had come down from Shakespeare's day they regarded as a trust and their associates of humbler position shared that belief and were faithful to it. Edwin Forrest, Charlotte Cushman, Edwin Booth, Joseph Jefferson, Lawrence Barrett and many others proved loyal stewards and left the inheritance unimpaired to a younger generation that sought to the best of their ability to carry on.

"If the great men and women of our stage should come back across the border and lend their counsel to your deliberation, could there be any doubt as to their indignation and protest?" *

COHAN'S CLEVER DEMAND FOR ARBITRATION

A couple of days later Cohan proposed that the matter of Equity Shop be submitted to arbitration, preferably to Herbert Hoover, then Secretary of Commerce of the United States, or to

* *New York Morning Telegraph,* November 24, 1923.

some other impartial national figure, such as William Howard Taft, Chief Justice of the United States Supreme Court.[2]

Now this was an exceedingly clever move on Cohan's part. Equity had made a great deal of capital of the fact that the Producing Managers' Association had refused to arbitrate the repudiation of the standard contracts just prior to the strike of 1919, at which time Equity had nominated Justice Taft or Charles Evans Hughes for Arbitrators.

But arbitration is a weapon of more advantage to the weaker party in a dispute than to the stronger, and circumstances had changed in the four years and a half which had elapsed. Equity now had more to lose by submitting to arbitration than the managers, and was consequently quite as averse to premitting the matter to go to arbitration as they had been.

"There are certain fundamental things that Equity refuses to arbitrate, and one of them is Equity Shop," was Gillmore's reply to Cohan's suggestion, when the *Morning Telegraph* referred the article to him.*

The time limit set by the Equity Meeting of November fourth had originally been due to expire on Sunday the twenty-fifth. A few days before the expiration of this time limit Equity, whether at the request of the managers, or because it felt that a little further deliberation might help the matter, had extended the limit to Monday night, November twenty-sixth.[3]

But Monday came and went, and there was neither another meeting of the Producing Managers' Association, nor word from its Steering Committee. And so when the Equity Council met the following day it authorized the dispatch of a notice to Shubert and Weber as chairman of the Steering Committee and secretary of the P.M.A. respectively of which the salient paragraph read:

"It is universally admitted that our members have the absolute right to agree among themselves with whom they will work and to protect themselves in that right by appropriate individual contracts. We are perfectly willing for the sake of peace to give the P.M.A. the advantages of a binding agreement; but rather than forego the Equity Shop Policy, which is distinctly not the 'closed shop' policy, this Association would prefer to conduct future relations with members of the P.M.A. without any basic agreement whatever." †

* *New York Morning Telegraph,* November 27, 1923.
† *Equity Magazine,* December, 1923, page 9.

In spite of its diplomatic wording and conciliatory tone, it was on the whole a pretty stiff note. It served notice on the Producing Managers' Association that although Equity preferred to reach an agreement with the Producing Managers' Association as a body, if it failed to do so Equity would have no compunction about splitting that body wide open by negotiating a separate agreement with such of its members as might be minded to accept Equity terms.

With this note as an argument, Lee Shubert proceeded to force a showdown in the Steering Committee when that committee met on December 3. It was A. L. Erlanger who had been questioning most severely the legality of the proposed agreement with Equity, and so Shubert managed to have Erlanger appointed a committee of one to confer with former Governor of New York Nathan Miller, with whom an appointment was arranged for December fifth. The Committee then instructed Weber to write to Gillmore saying that until certain doubts it entertained as to the legality of the clause affecting Fidelity were cleared up satisfactorily it could not go ahead with the negotiation of a new Basic Agreement.*

So the negotiations which had seemed so promising a few brief weeks before had now broken down completely, and Equity and the managers were, if anything, further apart than at their commencement.

NATHAN MILLER OUTLAWS EQUITY SHOP

The next move came from the managers. On January 7, 1924, Augustus Thomas invited Gillmore and Emerson to attend a meeting of the Steering Committee of the P.M.A. at his office. Besides Thomas there were present Lee Shubert, Hammerstein, Erlanger and Savage. As soon as everybody had settled down Thomas, as spokesman for the managers, read the opinion which had been handed down by former Governor Nathan Miller, as a result of his conference with Erlanger slightly more than a month before, in which among other things Miller had written:

"I am asked to give an opinion respecting the validity of a proposed agreement between the Producing Managers' Association and the Actors' Equity Association.

* *Equity Magazine*, December, 1923, page 10.

"The vice of the agreement consists in its purpose and effect to compel all in a particular calling to join a particular association in order to secure employment. That that is the effect of the agreement appears to be certain. All not members of the Fidelity in good standing on September 1, 1923, must join Equity to secure employment. The purpose of the agreement appears to be equally plain. The very exception in favor of members of the Fidelity in good standing on September 1, 1923, serves to emphasize it.

"The question of motive often becomes an important consideration in dealing with questions like the one propounded to me, though ordinarily people are presumed to intend the necessary consequences of their acts, and from the literature submitted to me in connection with the terms of the proposed contract, it would seem that there was much to indicate that the real motive back of the proposed agreement was the purpose to coerce all actors into joining the Equity Association. If this should be established as a fact, the agreement would be illegal, even under the decision in the Massachusetts case, which is the strongest decision to which my attention has been called in support of such an agreement, and the law of this state appears to be pretty definitely settled to the effect that such an agreement is rendered invalid by its coercive and oppressive effect regardless of any questions of motive." [4]

Thomas also revealed in this reading that the decision had been handed down on December 26, 1923, and that it had been held in abeyance for almost ten days.

"Under these circumstances it would be an impossibility for the Producing Managers' Association to sign the proposed new agreement," remarked Erlanger when the reading had been concluded.

"In that case," replied Gillmore, "there is nothing more to be done, Equity will have to abandon all thought of signing any basic agreement whatever with the P.M.A. and will issue instructions to its members, after passing a resolution to that effect, to sign individual contracts with individual members of the P.M.A. containing the Equity Shop clause. It is admitted that this would be legal, by Nathan Miller in the opinion which has just been read to us. It is even legal, according to that opinion, for individual producers to sign such a general agreement with the Equity Association to employ only Equity people.

"Cannot the lawyers of the two Associations get together and agree upon some clause which would be legal and yet contain the substance of the present clause?" suggested Gillmore. "If the

lawyers find this impossible, to so report back to the two Associations, in which case Equity would be willing to consider some other method."

"No," demurred Erlanger, "small lawyers wouldn't matter after Nathan Miller's opinion."

Nevertheless, the meeting seemed in general accord with Gillmore's suggestion.*

Several days later, writing to Gillmore to confirm the notes of the meeting taken by the Equity negotiators, Thomas elaborated the position he had taken at that time somewhat, saying:

"Personally I don't believe in employing our lawyers to evade a situation, where the situation has assumed in any written statement the color of a conspiracy. I believe that no matter how skillfully evaded in text, a court would take cognizance of the intentions, and I so believe because the courts insisted upon the motive when the United States Steel and Wire Trust dissolved, and entered into no written agreement whatever, had no conferences except a dinner at which one of the principal members read a report of the proposed prices of his own concern for the next quarter of the year. This was not commented on or replied to in any way, and yet the men were indicted by the Federal Grand Jury in a criminal prosecution of their presumed purpose." †

In conclusion, at this meeting it was arranged that each of the groups should work on its governing body, the Steering Committee working with the 1924 Committee, and Emerson and Gillmore with the Equity Council. Since Erlanger was going away for a period of sixteen days he requested that the next meeting of negotiators should be delayed for at least that long, and it was with this understanding that the negotiators parted.[5]

EQUITY PREPARES FOR A FIGHT

Matters were again at a pretty complete deadlock. It was something, of course, that some of the managers were willing to concede Equity Shop, or at any rate were desirous of avoiding another strike, but there were still so many members of the Producing Managers' Association opposed violently to the idea, and

* Report of Emerson-Gillmore to Equity Council, January 8, 1924.
† Letter from Augustus Thomas to Frank Gillmore, dated January 10, 1924.

they wielded so much influence in its councils, that Equity's negotiators felt they could not afford to delay longer the organization of a war machine which would be in readiness for all contingencies, whether called on or not.

So Gillmore presented to the Equity Council a table of organization with suggestions as to the personnel of the various committees which would have charge of operations if it came down to a strike.

In the main these committees followed the lines of the Equity organization as it stood when the managers laid down their arms on September 6, 1919, and the suggested Chairmen had all showed their mettle in that test. But where Equity had entered that first struggle comparatively unorganized, and had had to build its machine on the field of battle, it was now planned to establish and tune up that command in advance of the demands which might be made upon it.

As supreme Commander in Chief of this Equity General Staff, Gillmore, who had occupied that post himself in 1919, now suggested Emerson. Under Emerson and reporting to him there would be three chief advisors from the Council who, in turn, would work through the committees on Help and Aid, Finance, Entertainment, Meetings, Publicity, Secret Service and Investigation, Law, House, and Labor.

The heads of these committees would be charged with the administration details of the campaign and would consult with the Commander in Chief and his aids over the tactical scheme of the whole campaign. This work was to be begun at once in order that there might be no uncertainty or confusion when the call went out.

Emerson, however, declined the supreme authority thus tendered, and suggested sharing the command with Gillmore, who remained the real Commander in Chief as he had been in 1919.

Chapter XXXIII

Will Hays Gives Equity "The Run Around"

With this plan of campaign approved and organization under it already under way, Gillmore felt free to follow the lead opened up by a telegram from Ernest C. Joy, Los Angeles Representative of Equity, which came on the next day, Wednesday, January 9. In that telegram Joy said:

"Will Hays now in Los Angeles states in interview that he would remain ten days. Could you arrive within that time? If not would you advise our committee seek conference with him? Committee particularly desires breaking off negotiations and dealing direct with Los Angeles producers."[1]

Now Will Hays had been more or less on Gillmore's mind. Twice in the two years since Hays had taken over the reins of the motion picture industry, Equity's executives had sought to gain his approval of a standard contract, and each time, the last one being about a year before this date, Hays had murmured politely that he would see what could be done about it, and then hadn't done anything. At this particular juncture of affairs Gillmore had less intention than ever of forcing the issue, but if Hays could be caught in a receptive mood, as was implied by Joy's telegram, putting through a standard contract would be a very neat piece of work. Besides, because of Erlanger's request, nothing could be done with the Producing Managers' Association for another fortnight anyway, and so Gillmore cancelled his engagements for the intervening period, and set out for Los Angeles the next day. He landed in Los Angeles on January 14.

That night Gillmore had the first of many meetings with the Los Angeles Executive Committee of the Actors' Equity Association, in the course of which it developed that there were conflicting opinions as to the conditions in the motion picture field, and that there was no unity of opinion in the Committee itself as to what should be done.

Hays made an appointment to see Gillmore and Joy on Wednesday morning. But when the Equity representatives appeared at his office they were informed by Fred W. Beetson, Secretary of the Motion Picture Producers and Distributors, that there was some mistake, and that Hays was in conference.

At that moment, however, Hays himself walked out of the conference and talked in a very friendly way with Gillmore, saying that he would call him in a day or two, as he was at the instant organizing the Association of Motion Picture Producers, comprising fifteen of the largest and most important of the western picture makers, and that he could not give the matter his attention until that was out of the way.

"I think you ought to know that a general meeting of members of the Actors' Equity Association has been called for Saturday, and that I should have a report on the actual progress of negotiations to date, to present to it," Gillmore informed him.

This news appeared to disconcert Hays somewhat, but he reiterated his inability to do anything at that particular moment, and returned to the conference.

When, on Friday afternoon, Gillmore had not heard from Hays, he wrote the Czar of the Movies a stiff note, dispatched by hand, reminding him that he had come three thousand miles for this conference. Still there was no word from Hays, and Gillmore resolved to make his indifference to Equity an important part of the speech which was to be made to the meeting. But at four o'clock on Saturday afternoon, four hours before the meeting, a telephone call from the Hays' office informed Gillmore that Hays had been compelled to go out of town, and could not see Gillmore before Monday. But that engagement was enough to force the elimination of such reference to him as Gillmore had planned.

Although Gillmore had not advertised his presence, the newspapers soon learned that he was in Los Angeles and reporters scenting more than a coincidence in the simultaneous presence of both Gillmore and Hays, plied him with questions of all sorts, to all of which Gillmore replied with extreme conservatism.

Nevertheless and notwithstanding which, he received a telephone call from Hays on Monday, in which that gentleman, in some annoyance, said that he might not be able to do anything

for Equity, now that this publicity had killed the secrecy of the conferences, but that he would see Gillmore during the afternoon.

At that time Hays asserted that the charter of the new picture producers' association had just arrived, and that they were, even now, electing officers. He said, further, that he didn't want to dictate to them about Equity, that they were supposed to have a free hand, and more talk of the sort.

"Mr. Hays," said Gillmore, "we have been waiting on your pleasure for two years. The announced purpose of this new organization is: 'To assist in fostering the common interest of all those engaged in the Motion Picture Industry.' The actor cannot be overlooked in that lineup. Besides, Equity's proposed contract is only a basis for negotiations; actually, Equity would be willing to consider that in use at one of the leading studios of your organization, with the addition of an arbitration clause to care for disputes."

"I am afraid of that arbitration clause," was Hays' reply. "It may make the independent actor come to Equity, and I'm not sure you have enough members."

Although Gillmore assured him that there were more Equity members in motion pictures than either he or his associates realized, and that members were not expected to proclaim membership on all occasions, Hays remained unconvinced, agreeing, however, to take up the matter when the organization of the Association of Motion Picture Producers was an accomplished fact, and promising to see Gillmore on his return to New York in a couple of weeks.

There was now nothing more to be accomplished in Los Angeles, and affairs were again approaching a crisis in New York, so Mr. Gillmore left the Pacific Coast on January 22, and four days later he was in New York.*

The Los Angeles trip, promising in its inception, had merely developed into another version of Hays' now familiar "Run Around." It was quite clear that, until the logic of events made it inevitable, Hays intended to do nothing whatever about Equity or a standard contract. And certainly Equity was in no position

* Report by Gillmore to Equity Council, January 29, 1924.

to force matters at this stage in the game. The conversation, therefore, was dropped for a third time.

ERLANGER'S PLAN TO OBVIATE EQUITY SHOP

To the Council meeting on February 19, Emerson reported that he had again been approached by representatives of the Producing Managers' Association, with proposals of such importance that he felt justified in calling a special Council Meeting for the following Friday, Washington's Birthday, at eleven o'clock in the morning, for their sole consideration.[2]

This time it had been Erlanger who had brought forward a plan. What he proposed at that time was later known as "The 80-20 Plan," by which was meant guaranteeing that the proportion of Equity members to non-members in any company should not be less than 80-20. But as couched by Erlanger there was no limitation as to who or what that 20 per cent might be, nor was there any guarantee that that 20 per cent might not be built up into a nucleus of opposition to Equity.

Nor did 80 per cent accurately reflect the real position of the Association, even in those companies controlled by members of the Producing Managers' Association, for a survey taken about that time revealed that well over 90 per cent of the companies were members of Equity. Outside the Producing Managers' Association, of course, the percentage was more nearly 100 per cent. So the Council decided unanimously that the proposition of the Managers' Conference Committee could not be accepted.

But Erlanger was not even willing to admit that any proposition had been made. On February 25, he replied to Gillmore, saying:

"Your letter to me is wrong.

"There is quite a difference between recommending a proposition to the main body of an association and a direct offer. And as the proposition never was submitted to the main body of the Producing Managers' Association you had nothing to decline!

"I am writing this to you because I want to keep myself on the right side of the arithmetic."

Erlanger then proceeded to amplify his statement as to the situation in a letter which was released to the press on the same day, in which he declared that the Producing Managers' Association was in the business of furnishing a certain type of entertainment to the educated portion of the community, and was obligated to do so because Equity (presumably because of the non-success of the Equity Players), was not in a position to do so. As a matter of fact Erlanger pointed to the decrease in the number of legitimate theatres since 1913, the year of Equity's organization and which he said was one-third of the total number, as though Equity tactics were responsible for the decline of the road, though this point was made only by inference. He felt, he said, that with at most 1,000 first class actors in the United States, the Producing Managers' Association must be left free to draw on any and all sources for its casts. Of the same problem in other allied fields of amusement Erlanger said:

"I do not believe there are more than 1,000 first class vaudeville acts in America, but the managers in that field have the advantage of having at their head E. F. Albee, one of the most efficient organizers and maintainers of discipline in theatrical history, and his associates stick to him as one man.

"To sum up the situation—in my opinion, there may be trouble. The Actors' Equity Association is affiliated with the Federation of Labor, and every man engaged in public affairs in the United States knows that spells trouble. The Actors' Equity Association is trying to introduce labor conditions into a calling intended to furnish entertainment. I believe that it will fail." *

Erlanger's announcement may have been due primarily to pique at the refusal of the proposition which he had fathered, but it was occasioned even more by certain interviews which had preceded it. It was reported to Equity that following the meeting of the Steering Committee of the Producing Managers' Association on January 7, at which former Governor Miller's opinion had been read to Equity's representatives, Erlanger had been inclined to recede from his announced position and accept Equity's proposals.

Then there had come to him various opponents of the plan, among whom were George C. Tyler and E. F. Albee, declaring that what the legitimate theatre really needed was a dictator of the type of Albee in the vaudeville field, and inferring that

* *New York Times*, February 26, 1924.

Erlanger was that man. One touch of real firmness, Erlanger came to believe, would bring the actors around, and whoever applied it would settle the menace of a strike. If Lee Shubert succeeded in putting over his plan, he would be given credit for having brought peace to the theatre. But the Shubert Plan had been disposed of, temporarily, at least, and this was Erlanger's opportunity. He had seized it, and in presenting a scheme which guaranteed Equity a preponderance of four to one in the plays of members of the Producing Managers' Association, Erlanger believed that he had offered the actors something they would not dare refuse, and so he thought that he was disposing of a closed shop and Shubert preëminence at one and the same time. But the Actors' Equity Association had refused it, and Erlanger, to his annoyance, was back where he started.

Prospects of peace were really at a very low ebb at this moment, for Lee Shubert, disgusted at the way things were going, and convinced that there was no escaping a strike, privately informed certain of his fellow managers that if they meant to go through with a battle he would stick with them. But, to insure himself against holding the bag again, Shubert insisted that the opponents of Equity Shop put up a forfeit for the faithful performance of their pledges, which he would match dollar for dollar, up to one hundred thousand dollars.*

Here was a golden opportunity for the Producing Managers' Association to cement an alliance which would have made considerable trouble for Equity. But the managers let it slip, and Shubert, more sure than ever that his only escape from a ruinous fight lay in a separate peace, turned his back on his associates, and set himself to find some accord with Equity.

EQUITY'S RETORT

Equity's answer to Erlanger, although it was not announced at the time, was taken in a Council meeting held on February 26, the same day on which the Erlanger letter appeared in the newspapers. It was passed unanimously, and read:

"Resolved, that as no agreement has been entered into between this Association and the P.M.A. in place of the agreement of Sep-

* *Brooklyn Eagle*, May 25, 1924.

tember 6, 1919, that this Association so certifies and that the Executive Secretary is authorized to so certify on its behalf." [3]

This resolution referred back to the riders or stickers which had been pasted on all P.M.A. contracts since April, 1922.[4]

In effect this was a legal notice to the Producing Managers' Association, whether conveyed to them at the instant or not, that Equity considered all agreements and contracts which might be in force between the two Associations, or their individual members, to be off from the first of June. And this would apply to all contracts bearing the sticker, even those which were for a term of years extending beyond June 1, 1924.

The Council instructed all members who had signed such contracts to give due notice to their employers that the operation of the contract had been suspended; but modified the ruling by continuing:

"These rules shall not be construed to require a member to violate any contract heretofore made, in the making of which the member has not violated any lawful order of this Association or of its Council; but in such cases the member is released only to the extent required in such contract." [5]

All these points had been made in the precise phraseology of the law, in view of the predilection for the courts already evidenced by the Producing Managers' Association. Underneath it all, the Association was simply warning everybody concerned that it looked very much like a fight, and not to get so tied up as to be unable to join in it.

This same Council meeting also considered a variation of the 80-20 proposal which had come in from Lee Shubert. It made no mention of the Actors' Fidelity League, but it provided for exemption from Equity Shop, by name, of practically all of its stars and then, to provide for any others, proposed that in all companies under the Producing Managers' Association, of less than fifteen actors, there be allowed one non-Equity actor; between sixteen and twenty-five, two non-members; from twenty-six to thirty-five, three, and so on all the way up the line.[6]

It was to be understood that this agreement applied only to principals, and that the chorus was to be taken care of in another agreement, and it was further stipulated that there was to be no

mention of either Equity Shop or Closed Shop in the agreement.

Shubert felt that stars who belonged neither to Equity nor to Fidelity of which there were a few, could be taken care of through that exemption. For instance, at that time Jeanne Eagels belonged to neither organization, but it was believed that since she was the only non-Equity member of "Rain" she could come under this agreement without trouble. Where two stars played together, as in the case of E. H. Sothern and Julia Marlowe, also outside both folds, it was the opinion of Shubert that their companies were usually large enough to accommodate both without inconvenience.

But the Council found itself unable to reach a complete accord on this proposal, and it was finally dropped without a definite decision having been reached. The last thing before adjourning, the Council issued a call for a general meeting of the Association on Sunday, March 9, at the Forty-Eighth Street Theatre, at which time the cards were to be laid before the members, and instructions issued as to just what was expected of each in case of a fight.[7]

QUINQUENNIAL RETIREMENT NOTICES

In the meantime, Erlanger had no easy time holding the theatrical spotlight. Just a week after he had delivered himself of his broadside at Equity and its policies, David Belasco landed on the front pages with the announcement of his intention to retire at the close of the current season.

Belasco did not enjoy his position in solitary state for long. The very next day George M. Cohan was out with his Quinquennial Retirement Notice.

"There is not a thing the actors are fighting for except power," declared Cohan. "They are not trying to better their condition. That is well nigh impossible under the existing contract, for they have everything in the way of salary and rehearsal conditions for which they ask.

"It's a pity. I don't think the rank and file of the theatre we all love and for which we are all working in common bond, have stopped to figure this out. To them it seems a matter of course procedure on the part of their officers for further improvement in their conditions. If they will only pause to consider they will

know better; for, as I have said, I know the fellows who form the backbone of the profession, of which I have the honor to be a member, will agree with me they have everything in the way of working advantage they could possibly ask.

"Just ask any of them. See if I'm not right." *

This direct challenge was answered in the *Equity Magazine* of March, 1924, in which under the caption "Managerial Nightmares, and Such," was written:

"Since Mr. Cohan makes this argument the basis of his refusal to grant the necessity of Equity Shop, perhaps it might be well to speak up in meeting and to say that the fly in the ointment was just this: the existing basic contract might have proved satisfactory if the Producing Managers' Association had been willing to give it a chance.

"But many well known and powerful members of the Producing Managers' Association have not lived up to the terms of the present agreement. By subterfuge, evasion, and sometimes by virtue of the fact that they controlled many of the important avenues of employment they have been almost beyond the reach of corrective justice." [8]

The day after Cohan's pronunciamento rent the air the whole works blew up with a bang. Twenty-seven members of the Producing Managers' Association, their representatives, or those who took their names in vain, met in the office of Sam Harris, and vowed, so help them various deities, they would never work under Equity Shop conditions.

"Unless some agreement can be reached before the first of June, when the present contracts between the Producing Managers' Association and the Actors' Equity Association expires," read the statement, "the theatres will be closed by a strike. This will hinge upon one point of difference, and only one—Equity's demand for a closed shop.

"This is the sole point at issue. A future contract, regarded by both sides as fair, has been agreed upon. All other details have been, or can be, adjusted.

"It is to this, and to this alone, that the Producing Managers cannot agree. They believe that it would work enduring harm to the theatre, and that it would be humiliating, unjust and un-American." [9]

* *New York Morning Telegraph*, March 5, 1924.

EQUITY LINES UP BEHIND THE COUNCIL

On Sunday afternoon, March 9, between fourteen and fifteen hundred members of the Association crowded into the Forty-Eighth Street Theatre. They had been summoned by their Officers that knowledge of the negotiations might be brought up to date, and that those Officers might be sure they were in touch and in harmony with the general feeling of the membership.

Every seat was taken long before the curtain was rung up. The Forty-Eighth Street Theatre only seats nine hundred and fifty, and so the meeting overflowed into the aisles, and on the stage, and there was a deep cordon of standees behind each gallery rail as well as the orchestra.[10]

The meeting heard with considerable emotion that the Equity Council, on February 26, had declared:

"Resolved, that after June 1st, 1924, no member of the Actors' Equity Association shall perform service for any manager in any company unless each and every member in that company in which the actor is playing is, and continues to be throughout the engagement of the actor, a member in good standing of the Actors' Equity Association." [11]

The presentation of that resolution to the general meeting meant that after more than a year of negotiation the enforcement of the Equity Shop Policy upon the members of the Producing Managers' Association seemed possible only by a fight. This resolution was in effect a strike vote, although as Emerson explained:

"The Council, in passing this resolution, does not mean to convey that all negotiations are necessarily off. But it does emphatically mean that any new offer must come from the managers.

"The resolution means that we must prepare for battle. It means that if a war is forced upon us all chances of concessions are gone, and gone for good; but it does not mean that we will refuse to listen to any proposals which the Producing Managers' Association, or any new association of managers might make to us. We earnestly desire peace, but it must be a peace which guarantees to us the life, integrity and strength of our association." [12]

But though Equity must be ready for a fight, Emerson told the meeting he did not expect to have to face a general strike.

"It would be foolhardy for the managers to fight now," he said. "We were 2,700 in 1919, and our organization was poor, uncertain and inexperienced. The managers were united. Today we are 10,000 strong, we have five years' experience and a battle fought and won behind us, while the managers are divided. What chance have they to win, now?

"The managers know they haven't a chance. Mr. Brady and others have acknowledged that—Mr. Shubert knows it. That is the difference between him, and his associates, and the rest of the P.M.A. Mr. Shubert and his allies have the vision to see the inevitable outcome. The others, apparently, have not.

"Mr. Shubert has asserted, consistently and persistently, that he will not close his theatres, and I believe that he is perfectly sincere in this. He would prefer to see the P.M.A. kept together, as we would; but if the P.M.A. refuses to propose any acceptable agreement, it is my opinion that Mr. Shubert will leave the P.M.A., with as many as will follow him, and form a new association, which will sign an agreement with Equity.

"We are anxious to keep the door open for Mr. Shubert and his adherents, but at the same time Equity must declare its policy in no uncertain terms." [13]

Gillmore was then asked to reread the resolution which had been adopted by the Council to which was now added a supplementary resolution declaring:

"Further resolved that each member of the Actors' Equity Association shall sign only such contracts as will permit and enable him to conform to and carry out the foregoing resolution; and that, as affecting any employment after June 1, 1924, each member of the Association shall have as part of his contract with his employer, an agreement on the part of the manager that at all times during said term of employment of the actor each and every member of the company in which he plays is, and will continue to be, a member in good standing of the Actors' Equity Association and that should, in any cast, any member thereof, at any time during such engagement, fail to be or fail to keep himself in good standing, then, and in that event, the contracting actor may, without prejudice to other remedies, terminate his contract of employment.[14]

Well, here the meeting was face to face with a declaration of policy which, if carried to its logical conclusion, could mean only war with a considerable section of the Producing Managers' Association, and might, in spite of Shubert's evident dislike for a fight at this time, involve him and all the other managers as well. But the emotional current was running high, and the meeting was in its grip. As Gillmore finished his reading the house rose to its feet, and standing there, cheered for several moments.*

But before a vote was called for, three of Equity's most prominent stars and members of its Council, women who had no need for an Equity Shop to obtain the terms they asked from their managers, spoke briefly in support of the motion, Laurette Taylor, Elsie Ferguson and, finally, Jane Cowl, pointing out that she was married to a manager (Adolph Klauber), and was part manager of the productions in which she appeared, added:

"In any conflict of interests Jane Cowl, the manager, would go down before Jane Cowl, the actress." *

How they cheered that statement!

And now the meeting was ready for the business of the day. Both resolutions were reread by Emerson. A thunder of "ayes" rolled up, which had the appearance of being a unanimous vote. A conscientious call for "noes," however, developed the fact that there were two members present who declined to support the motions.[15]

Emerson invited the dissenters to give their reasons for their unwillingness to vote for the resolution. Then it was revealed that one of the "noes" had been uttered by Winifred Lenihan.

"I do not believe Equity Shop is essential," said Miss Lenihan, coming forward to the rail of the balcony in which she was seated. "Equity has done five years without it, and seems to have done very well. But if there is a strike or lockout," she continued, "I will probably go out with the Association, even though I do not believe in the Equity Shop for which it stands."

Although these sentiments were definitely and defiantly counter to the spirit of the meeting at large, Miss Lenihan's courage in making this declaration of faith was cheered heartily by the audience.

* *Equity Magazine*, March, 1924, page 9.

Richard Bennett proved to be the other opponent of the resolution. He, likewise, asserted that he did not understand the necessity for Equity Shop, but would be willing to abide by the decision of the Association in case of trouble.[16]

These two were the only voices of all that fourteen hundred or more which were raised in opposition to the vote for Equity Shop —a vote which authorized the declaration of war upon any managers who refused to accept Equity's policy. And with a parting vote of confidence for the Officers and Council the meeting eddied and swirled out of the theatre into the blustery March wind. But the sun was low before the last of the groups on the street before the theatre broke up.

Chapter XXXIV

THE 80-20 PLAN PLUS NEW TRIMMINGS

THE next move was clearly the managers', and they did not delay in making it. After a conference in Erlanger's office the next afternoon, it was announced that the Producing Managers' Association had a new proposition to make to Equity.

That these terms were not so very new, however, was disclosed by a study of the proposition as it was outlined in the morning papers on the eleventh. In its essentials the plan provided that in all companies controlled by members of the Producing Managers' Association not less than 80 per cent of the cast should be members of Equity in good standing.

To that basic proposition, which the Council had already turned down, the Producing Managers' Association was now willing to add a rider to the effect that the remaining 20 per cent of Fidelity actors and non-members of one sort and another, would be required to pay the equivalent of Equity's dues to the Actors' Fund of America, or to some other recognized theatrical charity.

"This stipulation, it was felt," said the *New York Times,* "would meet the main objection of Equity officials, who insist that they must have Equity Shop or some equivalent thereof in order to hold their organization together." [1]

But, although considerable interest was evinced in this proposition, even more was felt when it became known that even as the meeting of the P.M.A. was formulating this offer, Emerson and Lee Shubert were conferring in the latter's office. And what had passed at this conference was considered of immeasurably greater importance than all the meetings of the Association, and their resolutions together. For if the Shuberts stood with the remainder of the Association, then, beyond question, there would be a fight; while if they reached an agreement with Equity, the managers' united front was wrecked and their hope for a suc-

cessful bluff was gone glimmering.[2] But neither would talk for publication after this meeting.

The backing of organized labor, in the event of such a fight, was announced in no uncertain terms by Samuel Gompers on March 12. The veteran leader of the American Federation of Labor was on vacation at Atlantic City when he was approached by newspaper men as to the Federation's attitude toward the probable battle in the theatre.

"In my judgment the managers ought to aid and encourage by all means within their power the development and maintenance of the Equity," * Gompers was quoted as saying.

COHAN'S REJOINDER

Two managers, at least, interpreted these happenings as certain precursors of a fight, for on this same day Cohan announced closing dates for all his current productions; and ten days later Florenz Ziegfeld proclaimed the termination of the Pacific Coast tour of his "Follies."

Each of these plays employed a fairly large cast, and each had been moderately successful or better. Cohan's action was a concrete warning to Equity to "Stop, Look and Listen" to the results of its Equity Shop campaign; and to its members to behold the dire results to which the blind following of their leaders had brought them. And because a hundred or so actors and actresses were actually losing their jobs by these closings, knowing that they could have continued to work if it had not been for Equity's stand, it was a shrewdly calculated thrust.

Nor had the Shuberts completely decided on which side of the fence they meant to stay. In their *New York Review* they caused to be printed the ever recurrent rumor, that of a third actors' organization.[3]

Those were confused and contradictory days for all concerned, and in the barrage of propaganda and threats to which they were subjected from all sides, it is small wonder if, privately, individual members of the rank and file of Equity questioned among themselves as to the advisability of holding out for the last concession which might be gained in a fight.

* *New York Evening Sun,* March 12, 1924.

To the reviewers and commentators on the sidelines at this time it looked as though it were about a toss up as to whether June 1 would see a fight or a frolic in the theatre. The shrewdest guess, in the light of what actually happened, was written by Burns Mantle, and printed by him in the *New York Daily Illustrated News.*

"Consider the line up of the managerial families," he wrote. "The Shuberts, the Selwyns, the Woods, the Webers, the Bradys and the Hammersteins are ready to sign a separate peace.

"The Goldens, the Harrises, the Ziegfelds and the Dillinghams, more or less under the influence, if not the direction of the Erlangers, are ready to talk over any reasonable sort of compromise.

"The Belascos, the Hopkinses, the Pembertons, and the Winthrop Ameses are strongly idealistic. They recoil at the very mention of labor unionism as being in any way related to art. And the Cohans are still deeply hurt in their pride, though honestly strong for the actor in their hearts.

"The thing that now seems likely to happen is that the Shuberts, the Selwyns, the Woods, the Webers, the Bradys and the Hammersteins will sign up and their shows will go on, all Equity if not all good.

"And there is a fair chance that the Goldens and Harrises will sign with them.

"The Erlangers will probably hold out because of their ancient feud with the Shuberts, who have shrewdly taken the other side, and if they do they may keep the Dillinghams and Ziegfelds out with them. There is a tie up of money here, of theatre leaseholds, and half and third interests in show property that cannot be lightly jeopardized.

"And if these hold out, it will give strength to the Belascos, the Hopkinses, the Pembertons, the Ameses and such other idealists as hope to stand with them. Which will add to the excitement of the fight while it lasts." *

With affairs in this muddled and uncertain condition each group continued to lay its own plans for all contingencies, each maintaining, as far as possible, a bold and nonchalant front to all questioners.

At the same time the Council resolved to request Equity

* *New York Daily Illustrated News,* March 16, 1924.

Players to change its name. The similarity of names, and the fact that at the beginning Equity had sponsored the Players, had left a conviction in most lay and many professional minds, that the Actors' Equity Association and the Equity Players were one and the same organization. In the meanwhile Equity had withdrawn completely from the direction of the Players and their policies; but decisions as to casting and policy which were unpopular, and there seemed to be many of them, were still thrown up to the Actors' Equity Association. Equity Players accepted the suggestion and shortly blossomed out as the Actors' Theatre, a name which it has retained.[4]

Just as the Equity Council had, on February 26, authorized the Executive Secretary to certify that no agreement replacing the Basic Agreement had been reached with the Producing Managers' Association, so it now, meeting as the Council of the Chorus Equity Association, passed a similar resolution for that body.[5]

ENGLISH ACTORS SIDE WITH EQUITY

And in pursuance of the campaign for readiness to meet any contingencies Gillmore sent to the Editors of The Stage and Era, of London, an advertisement, for insertion in their forthcoming issues.

It was a notice that Equity rather anticipated a lockout from June 1, and that certain American managers were announcing their intention of importing strike breakers from England. It suggested that English players decline to sign contracts involving their services after that date unless they contained the following paragraph:

"The term of employment mentioned in this contract is subject to suspension or termination by any rules or regulations duly adopted by the Actors' Equity Association of America."

The reply from the British actors was prompt and effective. On March 30, Gillmore announced the receipt of a cable from Alfred Lugg, General Secretary of the Actors' Association in which he declared that the Actors' Association of England was in entire sympathy with the Equity Shop policy and would take all steps to guard against "Blacklegging" on the part of British artists. The cable concluded with these words:

"Accept this cable as authority from us that all British actors members of the Actors' Association of England, in the States are hereafter under your jurisdiction and should obey your instructions in any dispute." *

Equity would not have to guard that flank in a pitched battle.

All during this exceedingly confused and disordered month both Equity and the various groups of producing managers were constantly sending up trial balloons, trying to discover from their reception just what concessions might be hoped for, and the ultimate lines on which a stand would be made. Most of these rose from the various managerial camps, for Equity up to this time was still standing fast on the Equity Shop proposition which had been accepted by Shubert and Weber for the Producing Managers' Association in October, at Atlantic City.

All of the managers' propositions, without exception, were aimed at obtaining an exemption from Equity Shop for a certain number of players. It was not for the Fidelity League members alone that this fight was waged, for Equity had announced that all of those actors and actresses who had been in good standing at the time negotiations were begun (September 1, 1923), would be exempted from the operation of Equity Shop in perpetuity. But the managers wanted to retain a semblance of open shop, even though it might be only a minor fraction; and they were desirous of keeping a sheltered preserve for conscientious objectors or actors who might have trouble with Equity—a place to which they might go and be privileged to flout Equity in perfect safety, a sort of modern sanctuary.

Time after time they came back with this proposition, in one form or another: eighty-twenty, fifteen to one, twenty-five to two, the payment of dues from these non-members to the Actors' Fund, or some similar charity—anything, anything at all, to avoid recognizing the necessity for or the practicability of Equity Shop.

TRADING TALK

No sooner would such a proposition from one group be turned down by Equity than another, differing from it only in non-essentials would be preferred by a second. Even Lee Shubert

* *New York Tribune,* March 31, 1924.

came back again with the same scheme in little different clothes. And once more, Gillmore had to write to him, this time on March 29:

"Your suggestion to propose to the members of the Producing Managers' Association a guarantee that only 80 per cent of each company shall be Equity is, in my opinion, unsatisfactory, and would never be accepted by either the Council of the Actors' Equity Association or its members. Besides, it would give certain managers an idea that Equity was weakening, and willing to accept lower terms than is actually the fact. It is better for everyone to realize that Equity is determined not to recede from its original position as stated in November at a general meeting and endorsed by our people.

"When this trouble between the managers and the actors is over we hope for a lasting peace and to insure this there must be a smoothly working system. The eighty-twenty proposition, in my opinion, would have the reverse effect and create nothing but endless supervision, endless bickering, endless charges. . . .

"A clean cut system is one to be desired. Any other would be a temporizing experiment and ultimately work to the detriment of both sides.

"My suggestion is that you call a meeting of the Producing Managers' Association, that you read to them the conditions of the agreement between us in Atlantic City as well as the additional guarantees which were given by us afterwards, that you call upon the Producing Managers' Association to pass upon it. Let us suppose it is turned down, then those who are desirous of working with Equity will sign up and work in harmony.

"The first result of this stand will be that several members of the Producing Managers' Association will flop over to your side. These will be followed by others, not to mention the Independents, who will hurry up their productions in order to secure theatres whose doors they will then be sure will remain open to them.

"Further delay, in my mind, will be unfortunate for all concerned. Equity is firm in its stand and those who are friendly should hasten to sign up with it."

This was an open bid for the Shuberts, if they failed to get favorable action from the Producing Managers' Association, to tear that organization wide open.

With the Shubert overture disposed of there was immediate renewed activity from the Round Robins. A letter from Sam

Harris to Gillmore requested a conference on behalf of those managers whose state of mind he represented.

It was no part of Equity's plans to refuse to listen to propositions from anybody, and the Round Robins seemed likely to work around to something that might prove acceptable. So a meeting was arranged at the Hotel Astor, on Wednesday afternoon, April 2. Equity was represented by Gillmore and Emerson, while Sam Harris brought with him to the round table Willam Harris, Jr., Winthrop Ames and Arthur Hopkins—a gathering of the "Best Minds" of the standpat group.

The Equity officers went armed, not with revolvers or stilettos, perhaps, but with a nonetheless potent Council resolution which had been passed the day before that:

"The sense of the Council was expressed to the effect that, should the executives deem it advantageous at any time, our policy is not averse to the closing after June first of productions playing in theatres controlled by those aligned against Equity." *

The managers' program for this occasion had been worked out with a great deal of care. It was designed to give Equity as much as possible of its announced program, while still stopping short of Equity Shop.

The principal point in the offer was the agreement not to engage any Equity members save those in good standing.

The Producing Managers' Association would agree that all independent actors (the term used to define actors who were members of neither the Equity nor the Fidelity), should pay to the Actors' Fund of America, or some other charity to be mutually agreed upon, a sum equal to the initiation fee and dues of the Actors' Equity Association, which must be paid by the actor himself, and not the manager. In addition the managers were to promise to pay to Equity $1 a week for each such independent actor in his employ.

Fidelity members were to be exempted from this ruling, although it was to be understood that Equity might limit the number of Fidelity actors.

The question of an Equity Shop for the chorus was to be taken up by the Producing Managers' Association at a later date.

The drawing of the line between production and stock man-

* Equity Council Minutes, April 1, 1924, page 1314.

agers was likewise to be a matter for future consideration on the part of the P.M.A.

Equity had been talking of annual benefits in each company, and of establishing a Death Benefit Fund of its own from the proceeds. This was declined by the P.M.A. committee, but they declared that there would be no objection to Equity members playing in their own benefits.

Otherwise the agreement which had been reached in October, 1923, would be acceptable, with, of course, the elimination of the provision for Equity Shop. And they would be willing to sign a new Basic Agreement on these lines for either five or ten years.[6]

This proposition had its good points, the Equity negotiators believed. But there were other points that did not look so good, or of which, to say the least, they had their suspicions. And furthermore, there were so many angles and some of them had so many complications, that they did not feel they could give an answer either way offhand. The best they could do, they said, was to take the proposition to the Equity Council, and to study it and discuss it with that body.

It is presumable that the managers' committee believed that its concessions were too good to be refused. Or else they read more into this noncommittal answer than was warranted. At any rate, though Gillmore and Emerson studiously refrained from commenting on the outcome of the conference, the rumor was widely current the next day that the dispute over the new contract was settled and that there would be no strike in June. So definite was the story that Equity had accepted, or would accept the new offer, that Gillmore found it necessary to send out a statement on the afternoon of the third, that no agreement had been reached as yet, nor was any within reasonable view: that the best which could be said was that Equity was considering the proposition as outlined at the meeting at the Astor.[7]

But although the great battle with the Producing Managers' Association almost obscured other activities, underneath the surface clamor Equity continued to perform its regular functions as usual, and even found time and energy to take on a couple of side issues, also.

For instance, on the twenty-second of March Equity transmitted to the Ways and Means Committee of the House of Rep-

resentatives, at Washington, a petition requesting the repeal of the ten per cent tax on admission to theatres.

Far from winning this fight, Equity's appeal resulted in an actual loss of ground. The session of Congress to which this appeal was addressed did nothing about it, but a subsequent one further handicapped the legitimate theatre by removing the tax on tickets costing fifty cents or less, while retaining it for the higher priced forms of entertainment. The legitimate theatre was thus worse off, as far as competitive prices were concerned, than before the start of the campaign.

EQUITY BACKS DOWN ON EQUITY SHOP

On the following Sunday afternoon, April 6, a small gathering met at Emerson's apartment to make an intensive study of the propositions advanced by the Harris committee. There were present, Emerson, Gillmore, and Dullzell of the Executive Staff, and Turner and Sheffield of Counsel for the Association.

In the end, and it was a long time coming because the group held diverse views on several points, and debated them at length, it was agreed that the proposition was not acceptable as made and that if the Council was willing a counter-proposition, which was then and there worked out, should be put up to the P.M.A. negotiators.

But, on the advice of the attorneys, it was further decided that this counter-proposition was to be made only to the Producing Managers' Association as a whole, and that if a separate peace was to be made with any faction of that organization the terms should be reconsidered and scrutinized carefully.[8]

When the Council held its regular meeting, next Tuesday, it was quite willing to allow the new plan to go to the P.M.A. Committee. But, experienced in the ways of that organization, the Council resolved:

"That this be presented to the membership at a General Meeting, *after* it has been submitted to and accepted by the P.M.A., but not before."[9]

With these credentials, Messrs. Emerson and Gillmore met the P.M.A. committee, again composed of Sam H. Harris, William Harris, Jr., Winthrop Ames, and Arthur Hopkins, in the office of Ames, in the Little Theatre, on Thursday, April 10.

Equity's counter-proposal suggested that the managers pay Equity $1 a week for each independent actor (that is an actor who belonged neither to Equity nor Fidelity), in their employ, but that these actors pay to Equity, not to the Actors' Fund or any other organization, a sum equivalent to the current Equity initiation fee and dues. This, Equity thought, was only fair since these independents obtained all the benefits and concessions secured by Equity for its members, while remaining outside its jurisdiction.

For the rest Equity was willing to accept the 80-20 clause and to sign a contract for five or ten years. On all other points not covered specifically, the agreement worked out the preceding November was to hold.

There was little hesitation in the refusal of this proposition by the Round Robin Committee. Indeed, Gillmore, reporting back to the Council later, said of the meeting:

"They are not willing, under any consideration, so they say, to turn over to Equity the money which the Independent actor would have to pay. They are not willing to consider 80 per cent Equity casts in all companies. They are not willing to grant the Chorus Equity Shop. Mr. Sam Harris weakened on this and stated that he would try to see if he couldn't get that through. They are not willing to admit that all stocks should be Equity, though they will consent to a limitation of non-Equity stocks. Mr. Ames suggested six, Sam Harris ventured five. Their reason for their stand on this point was that a producing manager might desire to take some non-member of Equity in a stellar position to try out some play in stock, and that, under the rule proposed by Equity, would be impossible without his joining Equity. The managers suggest, however, that they, themselves, should put up a heavy money penalty which would be sacrificed in case anyone in their Association coerced or persuaded any actor not to join Equity, or having joined it, to leave it." *

THE SHUBERTS ARE WARNED OF A SHOWDOWN

The Council evidently realized that it was not likely to get anywhere trading talk with the Round Robin Group. Reluctantly, but decisively, nevertheless, it was resolved:

* Equity Council Minutes, April 15, 1924, page 1328.

"That Mr. Shubert be asked to put this proposition before the main body of the P.M.A. before finally breaking with that Association and starting a new organization." *

And in order that the membership at large, and the theatrically interested public might know what had been going on behind the scenes, in part at any rate, the Executive Secretary issued a statement next day in which he said:

"The Actors' Equity Association announces with regret that the recent negotiations with the so-called Round Robin Group of the Producing Managers' Association have broken down."

Gillmore then pointed out that the issue on which Equity was standing was neither new nor arbitrary; that it had been accepted as fair and equitable by the managers' committee which had approached Equity in the previous fall.†

The answer of the Round Robin group was to gather in Sam Harris' office on April 17 and shout "Down With Bosses" at the top of their lungs. They were opposed to Equity Shop because they were opposed to Bosses, and bosses whether employer or employe bosses were an iniquity, they said. Bosses were the American curse and they were going to keep them out of the theatre, if they could.‡

Emerson read this fiery appeal and surmised, within hearing of newspaper men, that he suspected: "Sam must have had his tongue in his cheek when he issued that statement, for he must know that I am just as ambitious to be the boss of the American theatre as he is to be Archbishop of Canterbury—and with as much chance of success." If this was the only thing that stood between the P.M.A. and making an agreement with Equity, however, they could proceed with the utmost serenity and peace of mind, for he pledged himself, the moment they signed it, to resign as Equity's President.§

As to bosses in and out of the theatre, but particularly in, Gillmore contributed the comment: "We never argue with experts in their particular fields; and must leave the discussion of bossism

* Equity Council Minutes, April 15, 1924, page 1328.
† *New York Morning World,* April 17, 1924.
‡ *New York Morning Telegraph,* April 18, 1924.
§ *Equity Magazine,* May, 1924, page 40.

to the men who wrote it." This statement was explained by the *Equity Magazine* which said:

"The cream of this jest is that many of the managers who made this lofty statement were leaders and humble followers of the old Theatrical Syndicate, the Klaw and Erlanger combine which, in its day was the most perfect example of bossism the theatre has ever seen." *

Just to show the P.M.A. at large that Equity's negotiators had not been bluffing in their talk of readiness for a strike Gillmore, on April 20, released the news that Equity had leased the Manhattan Opera House for the month of June.†

ANOTHER BID FROM THE ROUND ROBINS

Then the Round Robin Group made one more effort to avoid the impasse into which matters were rapidly drifting. On Wednesday afternoon, April 23, Sam Harris called Gillmore at Equity Headquarters and urged him to come over to his office at once. He was asked to try to get Emerson to the conference, if possible, but in any event, to come himself. Gillmore did get Emerson and when they were in the Harris office the latter informed them that the meeting of the Producing Managers' Association which had been called for Tuesday, April 29, would be a very important one, and might prove to be actually the Annual Meeting of the P.M.A., although, under the constitution of that Association the Annual Meeting was scheduled for May 2.

To Equity's representatives Harris indicated that he considered there was a chance of reaching some sort of agreement if Equity would be able by that time to guarantee two things.

It would be most important, he said, to have any contract made with Equity underwritten by Equity's allies in the American Federation of Labor. Such underwriting had been given the existing contract, signed at the expiration of the strike in 1919, and, apparently, the P.M.A. wanted more of it.

The second point on which assurance was sought was that the money paid to Equity by independent actors should go to the Actors' Fund.

* *Equity Magazine*, May, 1924, page 40.
† *New York Morning Telegraph*, April 21, 1924.

Emerson and Gillmore adjourned to dinner in the Emerson apartment and sat late over the question. In the end they were agreed only that they would submit the proposition to the Equity Council, with a recommendation that this money go into a fund for legislation to benefit all actors, and not necessarily only Equity members.*

Next morning Gillmore wrote to Harris:

"Will you have the kindness to underline to the 'Round Robin' managers that Equity is only making these concessions to avoid a struggle and that if your members as a whole, at their meeting on Tuesday, turn them down then we shall be obliged to withdraw these concessions and revert to the proposed contract of November, 1923, generally termed the 'Shubert-Emerson-Gillmore agreement.'

"In reference to the point raised in our conversation yesterday, Mr. Emerson and I will recommend to our Council that the money equal to the initiation fee and dues of the Equity to be collected by Equity representatives from each 'Independent' Actor, shall be placed in a fund to be used for the promotion of legislation designed to benefit the acting profession as a whole and not simply Equity members. If at any time the P.M.A. questions our good faith in the administration of this fund, our books will be submitted to the official umpire and if his award be adverse then the A.E.A. will restore the amount to said fund.

"I am attaching a copy of the notes made by Winthrop Ames. A few changes have had to be made, since Mr. Ames drew this up with the idea of a 100 per cent Equity Shop for the actors; that having been abandoned we have had to make alterations accordingly."

These guarantees promised:

1. For twenty-five years from the date of signing the agreement Equity would not close its ranks to new members.
2. For the same length of time Equity would not raise its initiation fee.
3. For the length of the proposed treaty, ten years, Equity would engage not to interfere with the subject matter, text or casting of plays.
4. During the life of the agreement to be entered into Equity would not attempt to dictate the salaries paid to its members, except in the matter of minimum wages for the chorus. And

* Gillmore's report to the Council, April 28, 1924.

5. With the consent of allied theatrical unions, Equity would promise not to engage in any sympathetic strike, in case of trouble in the theatre, during the life of the prospective agreement.

Harris was greatly disappointed by certain clauses in the letter he had just received, particularly that which had to do with the endorsement of the contract by the American Federation of Labor. He was particularly anxious to get this angle definitely settled as there was to be a special meeting of the Round Robin Group on April 28, the day before the general meeting of the Producing Managers' Association, at which time, presumably, the tactics of the Round Robin Group for the general meeting were to be outlined.

Gillmore got in touch immediately with Frayne and obtained his endorsement of Equity's guarantees. In view of the uncertain status of the negotiations Gillmore did not think it worth while to bother the separate unions involved, since he was by no means sure that the managers intended to accept the proposition as it stood, anyway, and the whole thing might have to be taken up again.[10]

THE ROUND ROBINS ARE TURNED DOWN

By the Sunday of the week scheduled for the managers' important meetings Gillmore and Emerson had decided definitely that they could not conscientiously recommend to the Council acceptance of the proposition that the dues of independent actors be diverted from the Equity treasury or subject to any check or inspection there.

With Turner they drafted a letter conveying that information to Harris the next morning and then got the Council together in extraordinary session to endorse it.

Equity, that letter disclosed, would prefer to see permanent peace maintained, but it did feel that it had conceded about all that could reasonably be expected of it. It did not see, for instance, why there should be any supervision of the dues from independent actors. Other conscientious objectors, in the World War, had had to pay their taxes for the support of the war, whether or not they approved of it, and had not been able to tell the Treasury what to do with their money; nor did Equity sup-

pose the members of the Producing Managers' Association would countenance such a suggestion with regard to their own money or productions.

"We sincerely hope," the letter concluded, "that this one small point may not stand in the way of a settlement, but we feel very strongly that the concessions we have already proposed to the Producing Managers' Association are the limit to which we are prepared to go."

The Council did approve this letter and it was dispatched at once.* To insure its receiving the attention at the meeting which the Council desired, a copy was also sent to Lee Shubert on the morning of the day on which the Producing Managers' Association met to decide on peace or war in the theatre.†

THE P.M.A. DECIDES TO FIGHT

When Shubert walked into the office of the Producing Managers' Association that afternoon he found the meeting already in progress. Forty-five managers had gathered to hear the final terms Equity was prepared to grant.

"I have an answer to that letter," declared Shubert, and in the course of a long talk he sought to convince those present that a fight with Equity was the mistake of their lives—that in Equity there was unity, while in the Producing Managers' Association it was every man for himself. "The only difference is between ninety and eighty per cent," he concluded.

As he finished Marc Klaw was on his feet: "With all that, I move we reject the offer," he declared.

The drawing of a line between the irreconcilables and those who were disposed to make peace, which had been inevitable for so long, imminent so many times, and so often postponed, had now arrived. And when the ballot was counted up the irreconcilables were out in front, twenty-eight to seventeen.

With the vote on record, and the purpose of the meeting accomplished, Erlanger moved to adjourn, and his motion was seconded by Belasco. Lee Shubert, however, was not through with the fight, and succeeded in heading off the adjournment.

* Equity Council Minutes, April 28, 1924, page 1339.
† Gillmore's report to the Council, May 1, 1924.

But for all that was accomplished, except the bringing out of the fact that the twenty-eight votes were closely knit together by common agreement and were not to be shaken, the battle which raged about the floor during the next hour might just as well not have been fought.

Towards its close Arthur Hopkins brought forward a resolution, which was handed to the press immediately following the meeting, asking the discharge of all committees and the placing of future negotiations in the hands of the President, Sam H. Harris.*

The effect of this motion was to deprive Shubert, or any other dissenting manager from negotiating a separate peace with Equity in the name of the Producing Managers' Association, or any fraction of it. Harris was safely conservative and could be trusted not to take any action not sanctioned by the block of stand-pat managers.

It was at this meeting and under such circumstances that the personnel of the voting trust was disclosed (to which the signers had given the name of "Round Robin"), by which each signer pledged himself to abide by the will of *the majority of that group,* and to make no terms with Equity except as a body. There were at the time approximately sixty members of the Producing Managers' Association in good standing. A majority vote controlled its ordinary actions, while a three-fourths vote was required to change its constitution. Thus the block of twenty-eight votes here represented could practically control the Association, and fifteen of the twenty-eight could dictate its policies. So the Producing Managers' Association was actually in the hands of a group of fifteen men, some of whom made only one or two productions a year.

As might have been expected, Shubert fought hard against the establishment of Harris as the sole accredited negotiator for the Association, and for the offer made in Hopkins' release, but his group went down to the tune of seventeen to twenty-eight, each time. The release, while admitting that Equity and the P.M.A. were at loggerheads over the necessity for Equity Shop nevertheless proposed:

* Record of telephone conversation, Shubert-Gillmore, April 29, 1924.

"That the Producing Managers' Association and the Actors' Equity Association submit to an umpire or board of arbitration the problem of devising a plan that will fully protect the Actors' Equity Association without resort to Equity Shop, and be it

"Resolved, that the Producing Managers' Association will abide fully by the findings of said umpire or board of arbitration." [11]

There was less in this offer than seemed to be conveyed. The Producing Managers' Association was not offering to arbitrate the question of Equity Shop. That was specifically excluded from the consideration of the umpire or board of arbitration. The problem which would be before that tribunal would be the form of a substitute for Equity Shop. And the umpire or the board might resolve itself black in the face over the necessity for and the practicability of Equity Shop without making a dent in the resolution. Or as John Emerson expressed it, on reading the managers' release:

"As nearly as I can figure it out, the Producing Managers' Association proposes to put the matter of the Equity Shop up to arbitration, provided it is thoroughly understood beforehand that the arbitrators will decide in their favor.

"This is funny enough but not half as weird as the other resolution passed at their meeting making Mr. Sam H. Harris the only person to be allowed to treat with Equity. This means, as I see it, that the head of the standpat round table group who are opposed to any compromise, may talk to us, but that neither Mr. Shubert nor any of the forty per cent of those present at the meeting who voted to accept Equity's proposals may be allowed to tell us how they feel. This forty per cent is willing to come to an agreement with us, but according to this extraordinary resolution it is deprived of the right to tell us so.

"Truly the Producing Managers' Association works in a mysterious way its wonders to perform." [12]

Chapter XXXV

BIRTH OF THE MANAGERS' PROTECTIVE ASSOCIATION

Events now moved quickly to a dénouement. The Producing Managers' Association had issued a call for the Annual Meeting on Friday afternoon, May 2. At that annual meeting Shubert felt that a lot of legislation inimical to his interests and those of his group would probably be passed, and that he would be helpless to prevent its passage.

To forestall such a move Shubert called a meeting of his faction in his own office at three o'clock Wednesday, April 30.

An hour before this meeting convened Emerson and Gillmore met William Klein, Arthur Hammerstein, L. Lawrence Weber and Lee Shubert in the latter's office. They were to settle the terms which would be ratified by the new Association to be formed that afternoon.

Emerson stated bluntly that since the offer made to the Producing Managers' Association did not hold good for any new organization they would have to go back to the terms agreed upon the previous November.

There was open revolt among the managers at this suggestion. Hammerstein declared that he saw no reason why the managers who were coöperating with Equity should expect worse terms than those which had been turned down by the P.M.A. If Equity insisted on this treatment Hammerstein threatened to withdraw from the new Association, and Shubert admitted that he did not believe he could hold more than four or five firms with him, which would not be enough to prevent a pretty complete shutdown.

Several times in the next hour and a half it looked as though everything was off, and that nothing could prevent another such general fight as had occurred in 1919. During the last half hour of the argument Shubert's cohorts were gathered in the next room, or as many of them as were not in the fight now. As the time set for the meeting slipped by, and only signs of strife drifted

through from the next room, they began to grow impatient, and Shubert professed to fear that unless some agreement was reached they would walk out on the meeting and on the plan.

In the end the Equity delegates agreed to put up to their Council the plan as given to the Producing Managers' Association originally, reserving only the absolute right of the Equity officials to administer the funds contributed by independent actors or conscientious objectors without supervision or other accounting.

On the strength of those concessions the managers adjourned to the next room, and there, in the next few minutes was born the Managers' Protective Association, third of the managers' associations with which the Actors' Equity Association was to enter into contractual relations.* [1]

Later in the evening Shubert called Gillmore to say that he had talked to Charles B. Dillingham, and that Dillingham had shown every indication of being willing to settle with Equity, but that his affairs were too deeply involved with those of his partner, Erlanger, to make independent action possible. Another possible recruit to the Managers' Protective Association, Shubert reported, was Charles Wagner, who had not attended the P.M.A. meeting on April 29, but who would be present at the Annual Meeting of the Association on Friday, and who, Shubert was confident, could be counted on to support peace measures.*

The Round Robin Group of the Producing Managers' Association did not appear unduly alarmed at the announcement of the organization of the Managers' Protective Association.

"We have lost the Shuberts, but are bearing up as well as can be expected under the circumstances," was the comment of Sam Harris.†

A TEN MINUTE ANNUAL MEETING

The Annual Meeting of the Producing Managers' Association was held on Friday afternoon, May 2. In anticipation of it some grand strategy had been brewed by both sides.

The group which had just formed the Managers' Protective Association hoped to be able to swing enough members to its

* Gillmore's report to Council, May 2, 1924.
† *New York Morning World,* May 1, 1924.

side to break the grip of the Round Robin Group and to negotiate an honorable peace with Equity.

On their part the Round Robins had laid plans to bring about the expulsion of the Shubert faction for having violated the By-Laws of the organization by negotiating or announcing their intention to negotiate a separate contract with Equity.

The disciplinary value of this threat was highly regarded by its proponents. During the years in which the managers had sensed the inevitability of another conflict with Equity, the Producing Managers' Association had been quietly building up a war chest which, by this time, had reached the respectable proportions of about a quarter of a million dollars. Every member of the Association paid yearly dues of $500 (much in excess of the costs of administration), and $25 a week for each production during its run. Each manager had, in addition, filed a bond of $10,000, with the Association, to insure his faithful performance of his obligations. The Shuberts, and those associated with them in the formation of the Managers' Protective Association, had been among the most active producers in the P.M.A., and had probably contributed most to this fund. Since they had not resigned from the P.M.A. they were, presumably, still members and were subject to its discipline. And, so their opponents reasoned, if they were brought up on charges and expelled they would forfeit more money than any manager could stand losing without grief.

The reports of the brief meeting were confused and contradictory. It was admitted by both sides that the ostensible purpose of the meeting, the annual election of officers, was put over to another meeting to be called at some indefinite date, and that the meeting was adjourned in ten minutes without one tangible result except the demonstration that an impassable gulf stood between the Round Robins and the Shubert allies.[2]

Both sides had failed in their preliminary strategy. The Producing Managers' Association was still committed to its policy of opposition to Equity. The Shuberts were still members in good standing in the Producing Managers' Association.

Realizing that all hope of conciliation within the P.M.A. was now definitely ended, the Managers' Protective Association went immediately from the Annual Meeting of the Producing Man-

agers' Association to an executive session of its own organization in the Shubert offices. At its conclusion, Lawrence Anhalt announced:

"The members of the new organization who have favored the latest Equity proposal recently submitted to the Producing Managers' Association voted to accept the agreement as now drafted and will put their signatures to the contract as soon as the association is incorporated. The new peace pact protects the Fidelity League, which has been covered in all the negotiations with Equity." [3]

To the names of those producers who had attended the original meeting of the Managers' Protective Association were now added those of Thomas C. Broadhurst, James Montgomery, Jules Hurtig, George H. Nicolai, and Charles Wagner.[4]

Meanwhile on this eventful afternoon the Round Robins, left to their own devices by the walkout of the Managers' Protective Association in a body, took under consideration an offer of the Society of American Dramatists, made by Edward Childs Carpenter and Owen Davis, in which it offered to serve as a mediator between Equity and the Producing Managers' Association. The offer was accepted unanimously by the Round Robins.

Equity, however, was not in a mood to compromise now, for it as good as had its agreement with the Managers' Protective Association.

By this time it was quite clear that however Equity might have failed in convincing the Producing Managers' Association of the practicability of its program, it had driven a wedge of self-interest between the Round Robin Group and the Managers' Protective Association, which would definitely prevent any unanimous action by the Producing Managers' Association, such as it had taken in 1919. If there was to be a strike now it would be, at best, a partial one, and everywhere, except among the Round Robins themselves, it was conceded that it would be hopeless for the managers to win.

The Managers' Protective Association lost no time in going through with its announced program. On Monday, May 5, William Klein, attorney for the Shuberts, and legal adviser of the new organization, went before Justice Philip J. McCook, of

the Supreme Court, and filed papers of incorporation and a request for a charter which was approved by Justice McCook.

Those who were named as Directors of the Association were Lee Shubert, Arthur Hammerstein, William A. Brady, Crosby Gaige, L. Lawrence Weber, A. H. Woods, Edgar Selwyn, Richard Herndon, H. H. Frazee, Joseph H. Gaites, F. Ray Comstock, Lyle Andrews, Jules Hurtig, Adolph Klauber, George Broadhurst, and George H. Nicolai.[5]

Broadway found the presence of this last name on that list somewhat confusing, particularly in view of the denial Nicolai made through Sam Harris and more specifically in a letter to Weber in which he said:

"No one has the right to put me down as a charter member of the newly proposed Managers' Protective Association. I am a member of the Producing Managers' Association and signed the constitution and by-laws to abide by the rulings of the majority. I am also acting secretary under salary to serve all members of the Producing Managers' Association.

"I cannot become a member of any other organization of producing managers as long as I am a member of the Producing Managers' Association, unless I resign, and that I am not inclined to do." *

Nicolai never joined the Managers' Protective Association and his inclusion on that list was never explained further. It was just one of those things that occur in all campaigns.

MORE LIGHT ON MR. ALBEE'S ACTIVITIES

Important as this move was, it was temporarily lost sight of in the explosion of a bombshell which William A. Brady, in his own inimitable style, tossed into the Round Robin camp. On Sunday, May 4, Brady went down to Atlantic City to watch the opening of a new musical comedy, "The Dream Girl," at the Apollo Theatre. In the lobby of that theatre during the performance, Brady, with Lee Shubert standing by and nodding assent, dictated a statement to a representative of the *New York Times,* in which he said:

"In February of this year, Mr. Lee Shubert as the accredited delegate of the Producing Managers' Association and with the

* *New York Commercial,* May 6, 1924.

full consent of the present leaders of the 'round robin' bitter enders, arranged temporary peace terms with Frank Gillmore and John Emerson, acting for Equity. These terms which involved the guarantee of an eighty per cent Equity representation in all casts, were reported back to the association by Mr. Shubert and pronounced acceptable by those who are now fighting them bitterly.

"Then Mr. Albee returned from a vacation at Palm Beach and at once got in touch with the 'round robin' leaders and urged them to accept no terms but those dictated by themselves for a renewal of the present theatrical agreement. Five years ago, at the time of the first actors' strike, it was also Mr. Albee who prevailed upon the managers, by personal appeal to Lee Shubert and George M. Cohan, and this time again it is Mr. Albee who alone stands in the way of a peaceful settlement for all concerned." *

The information conveyed by this announcement was not precisely news to Equity, but it was very acceptable to have it emanating from a managerial source.

What Brady had said was promptly denied by Sam Harris for the Producing Managers' Association and by Albee's office for him.[6]

With the lines tightening and every indication that a partial strike could not be avoided, Equity received about this time, two very heartening accessions: Julia Arthur and Helen Hayes.

At the time of the strike in 1919 Helen Hayes was just beginning to make her presence in the theatre felt. Her manager, the man who had given her her start, was George C. Tyler—and Tyler was a bitter opponent of Equity, though not then a member of the Producing Managers' Association. From a feeling of very great personal loyalty to Tyler Miss Hayes joined the Actors' Fidelity League.

But the next five years brought home to Helen Hayes the fact that her heart was with her people of the stage, and that they were represented not by Fidelity but by Equity. And so, at this critical time, she felt that she could not be in any other camp.

She went to Tyler and told him of her feeling. Tyler did not attempt to dissuade her, but he did ask her to postpone making her choice known, explaining that "since my stand against the

* *New York Times*, May 5, 1924.

closed shop for which Equity is fighting was well known, to have her, my star, join the opposition would naturally be exceedingly embarrassing for me."

But Helen Hayes found that she could not be satisfied with neutrality. It was not enough that she was not against Equity—she felt that she had to be positively for it. And so she told Tyler that she was joining Equity.* There was no bitterness, but Miss Hayes has never since appeared under Tyler's management.

It was a courageous action for a young player to take.

A similar conclusion was reached by Miss Arthur, although there was not the same managerial conflict for her to face.

THE AMAZING PERFORMANCE OF HENRY MILLER

It would be interesting to try to trace some connection between these accessions from the ranks of the Actors' Fidelity League and the sudden and amazing move which was executed by its President, Henry Miller. Miller never explained its reason and later denied that he had ordered the release to be made *at that time and in the manner in which it was made.* At any rate, on May 7, there was issued from his office a statement headed: "An Appeal to the American Public," which read:

"The undersigned representing the non-labor union element of the theatre, now facing a conspiracy to restrict our personal liberties and professional activities, wish, in this extremity, to state our case to the American people."

After reciting the facts that abuses had necessitated the organization of the Actors' Equity Association and that there had been breaches of the contracts the statement proceeded to regret that: "In an hour of indignation and impatience they joined Federated Labor.

"The undersigned then felt that they could not be affiliated with a force so unreliable and the present crisis proves the truth of our intuition. We now further object to affiliation with men guilty of the butcheries of Los Angeles and Herrin; Equity is attempting an equal

* *St. Paul* (Minn.) *News*, May 4, 1924.

butchery of the spirit of the belief in American institutions in denying the right of the independent actor to work unless he subscribes to their union labor rules. It is true that Equity has offered to make an exception of us and our small group of associates and will give permission to us to play in companies wherever we can arrange to be in a minority of one to four, but we resent such denomination. We do not believe that a profession so dependent upon self-respect as that of the actor can be practiced in any numerical servitude. We deny that there can be a decimal melioration of tyranny. We deny that the fixed disciplinary admission of 20 per cent of independents constitutes an open shop. We protest against living by sufferance in a house which we have helped to build and in which our title is paramount.

"The Actors' Equity Association wishes to wield a bludgeon of labor union control in the theatre, subject only to the Gompers autocracy.

"It is signed by E. H. Sothern, Julia Marlowe, Mrs. Fiske, Margaret Anglin, William Gillette, William Faversham, Holbrook Blinn, George M. Cohan, May Irwin, David Warfield, Otis Skinner, Henry Miller, Louis Mann, Blanche Bates, Ruth Chatterton, Jeanne Eagels, Lola Fisher, Laura Hope Crews, Lenore Ulric, Billie Burke, Fay Bainter, Ina Claire, William Collier, Frances Starr and Lester Lonergan." *

The reactions to this manifesto were almost instantaneous. For Equity, Emerson, replying on the same day the Miller statement appeared in the papers, wrote:

"It is almost incredible that a man possessed of the intelligence and high sense of personal honor of Henry Miller could have issued so absurd and utterly false a statement as the one published in the New York papers today.

"It is equally incredible that he should have attached the names of prominent actors and actresses to this statement without their knowledge or consent, and yet this is exactly what he, apparently, did.

"It was impossible for the Equity officials to believe that the artists whose names were attached to the statement could have given their approval to such balderdash, and our suspicions were confirmed early in the day when William Faversham telephoned the Equity office to say that he had not been consulted by anyone

* *Equity Magazine*, June, 1924, page 29.

regarding such a statement, nor had he authorized the use of his name in any such connection.

"He registered his indignation in the matter by applying immediately for membership in the Actors' Equity Association." *

David Warfield, the next day, announced:

"I have not attended a meeting of the Actors' Fidelity League for four years and eleven months. I knew nothing about this matter until I saw it in print. I shall take steps of some sort tomorrow." *

HENRY MILLER, EQUITY RECRUITING OFFICER

What those steps were, he soon made clear. Immediately he sent in his resignation from the Actors' Fidelity League, of which he had formerly been a Councillor, and applied for membership in the Actors' Equity Association.[7]

Equity had been certain, all along, that many others of those whose names had been signed to that document were equally blameless. Accordingly telegrams were sent to a number of the alleged signers. Everyone to whom the telegrams were sent answered, denying any knowledge of the statement and disclaiming sympathy for its charges.

The Equity telegrams, which were identical, read:

"Your name is signed to attack published in newspapers against Equity by Fidelity League including statement that you object to affiliation with men guilty of butcheries of Los Angeles and Herrin. May we ask if you really authorized this use of your name?" [8]

In quick succession replies were received from E. H. Sothern and Julia Marlowe, Ina Claire, Lola Fisher, William Gillette, Frances Starr and Otis Skinner, denying authorization of the use of their names and dissociating themselves from the sentiments expressed in the statement.

Within two days of the launching of the attack by Miller, Fidelity's casualties were two resignations and seven repudiations: this out of a total of twenty-five supposed signatures.[9]

Miller perceived that his statement had not been accepted as

* *New York Times*, May 9, 1924.

representative of the Actors' Fidelity League. From Boston he telegraphed to the editors of several New York newspapers:

"May I be allowed to reply to the censure and misrepresentation showered upon the Actors' Fidelity League and myself in several New York newspapers today (May 9), regarding a statement written by me and published with the unwarranted use of names thereto. In justice permit me to state the facts.

"The Actors' Fidelity Association (sic) is in no way responsible and were not even aware that such a statement was under consideration. I wrote it at the request of certain men and women wishing to express their independent viewpoint relative to the unhappy conflict now raging in the theatre, several of whom are not members of Fidelity.

"My statement being approved it was planned to submit it to other actors and actresses hoping to secure their sanction and signature, and then published by a paid advertisement, the only method by which we can hope to escape the distortion of any expression which is contrary to the Equity or closed shop.

"Before leaving New York last Monday, I gave Mr. Alger, my manager, a copy of the statement with emphatic instructions that no name was to be attached without full authorization. The publication of same would be considered later. My surprise was equaled only by my indignation when I saw in the news columns of certain New York newspapers the article accredited to Fidelity and the unpardonable use of unauthorized names.

"While I have no apology to offer, I deplore the offense. As for my expressions regarding the prevailing aspirations of the Equity concerning closed shop I have nothing to add or retract." *

Whatever Miller's original intentions, the violent overstatement of the charges themselves, the peculiar ineptness with which the release was handled, and Miller's subsequent course made the statement a boomerang which went further toward wrecking the Actors' Fidelity League than its most ardent opponents could have desired, and certainly did more harm to Fidelity than it was expected to do to Equity.

* *New York Commercial*, May 10, 1924.

THE M.P.A. SIGNS A BASIC AGREEMENT

During all that week which began with Monday, May 5, the contract committees named by Equity and the Managers' Protective Association were in continuous conference.

The broad general policies behind the new Basic Agreement and Standard Contracts were not in dispute, but the matter of the wording of the clauses upon which would depend their legal interpretation was often the subject of fierce arguments.

In those disputes Equity was represented by Emerson, Gillmore, Turner, and Sheffield; the Managers' Protective Association by Hammerstein, Lee Shubert, Weber, Woods and Klein.

Where, in previous contract disputes, the producers had bent every energy to keeping the deciding power in their hands, when possible, they now were quite willing, if only they could get this instrument through, and an assurance of peace in the theatre, to leave decisions and interpretations in the hands of Equity. Turner, speaking later to a General Meeting of Equity members, said:

"Notice the spirit of this agreement. They were actually anxious to have these clauses arranged so that matters like these (layoffs), should be put up to the Association. It is astonishing when we talk to Woods and Weber and a lot of these fellows how they say: 'Why, that is splendid; the fact that we can go to an Association and get the kind of a deal that we have been getting and we are glad to put it up to you and glad to thrash it out.'

"There were an astonishing number of places here where Mr. Klein who fought very strongly and very well and very intelligently for the other side, would say to them, 'Look what they will have here; look what they will do.' and Al. Woods would say, 'What the Hell's the difference, they always have done it fairly.' It's really the first time in the history of the business of the theatre that character counts." *

And when Klein, in his zeal to protect the interests of his clients, would disregard these generous sentiments and balk at things which his legal eye saw left no loophole for the Managers' Protective Association, his revolts were not backed up by the managers. On one occasion a deadlock had been reached on a certain clause. Klein absolutely declined to accept one condition,

* *Equity Magazine*, June, 1924, page 57.

and was not to be moved by argument or persuasion. Gillmore and Emerson withdrew for an impromptu canvass of the situation.

"We'll go straight to Lee Shubert," they decided. "We've talked this over with him and we had agreed on what we meant."

And once in the Shubert office it was found that Shubert had intended to have the interpretation advanced by the Equity representatives. Klein was forthwith called on the telephone and was informed of Shubert's intention.

But when the conference was resumed Klein balked once more. "No, I won't agree to it," he declared over and over again. But this time Equity was more certain of its ground.

"Get Mr. Shubert on the telephone," Equity's delegates demanded. "We'll settle this thing now." And when Shubert was among the group by wire, over the telephone came this order, loud enough to be heard by all in the room:

"Do what these boys want to, Klein," they heard. "What they want is what we want, too."

Klein threw up his hands, and the last legal details were ironed out on Saturday of that week.

On Monday, May 12, the charter of the Managers' Protective Association was formally granted by Secretary of State James A. Hamilton, at Albany.[10] That afternoon, Arthur Hammerstein and L. Lawrence Weber, as its President and Secretary, respectively, affixed their contracts to the completed Basic Agreement and Standard Contracts.[11]

EQUITY'S MEMBERS HEAR THE TERMS

Immediately from that brief and secret ceremony Emerson and Gillmore hurried to the general meeting of the members of the Actor's Equity Association which had been gathering in the Forty-Eighth Street Theatre to receive official word as to the status of affairs.

It was a very excited and uncertain meeting for statements and counterstatements, rumors and denials, had been flying so thick and fast that only those on the inside knew anything of what was going on, and some of those did not know the whole story by any means.

Particularly the Equity membership had been tried by the con-

fident announcements from the managers that Equity was about to abandon its demand for Equity Shop—and the consequent uneasiness and uncertainty as to just where Equity had made its stand, and what it had gotten out of the negotiations.

There had been a great outpouring of Councillors and members to hear the results. Newspaper estimates afterwards placed the number present at between eleven and twelve hundred.

Emerson knew the thought uppermost in all minds. As soon as the meeting had been called to order, at 2 : 15, he went at once into the heart of the contract:

"On November ninth, in this place, we put before you a tentative proposed agreement between the Equity Association and the P.M.A. This agreement provided, as you know, for the exemption of the Fidelity League as of September 1, 1923, from our Equity Shop Policy.

"When this idea of exempting the Fidelity League became rumored about among our people, it created a great deal of unfavorable comment. In fact, I am informed that a large number of our members came to the meeting with the firm intention of kicking Mr. Gillmore and myself out into the back alley. That was because they knew only half the truth and a half truth is often more dangerous than an out and out falsehood. When our members learned what it was all about and the whys and wherefores of what we were proposing, they came to the conclusion that we had acted wisely in doing what we did, and, if my memory serves me rightly, the proposed agreement was approved unanimously by the meeting.

"And so it is with this new agreement. It has become noised about that under this agreement we are going to have in every company controlled by members of this new Managers' Protective Association, only eighty per cent of Equity members, and that they are also to be allowed to have all non-Equity casts if they can get them either here or abroad, and so be able to build up a nucleus of another association antagonistic to Equity and its aims.

"Of course, this is not true, and if any such ideas are worrying you in the slightest degree, you may dismiss them from your minds without any further ado. As a matter of fact, under this agreement, it is impossible for any member of this new Association to organize even one non-Equity cast, to say nothing of

getting enough of them together to oppose Equity. I repeat (for it is the crux of the whole matter), that under this agreement no member of this Association can have under his management one single cast of non-Equity members unless we choose to give him permission to do so, and that we are not going to do unless it is to our advantage to do it.

"This, of course, was something you didn't know, and we couldn't tell you because it would have been obviously foolish for us to go about divulging all the various points of this agreement until it was signed. Now it is signed by the accredited officers of this new Association, and we can tell you every detail of it; then, if you approve it, we sign it and the thing is settled.

"Now, then, what is this 80-20 thing that we hear so much about, and why did we agree to anything of that kind with this new Association of Managers?

"Well, if you will only listen patiently until I get through, I think you will understand why, and you will also understand that instead of weakening our Equity Shop Policy, we have strengthened it by the action we have taken.

"In the first place this 80-20 proposition isn't nearly as bad as it sounds, for it really isn't 80-20 at all, because in a company of five to nine members we allow only ONE non-Equity member; from ten to fourteen, TWO non-Equity members and from fifteen to nineteen, only THREE non-members, etc. This averages much nearer ninety than eighty per cent, but that is not important. The significant thing is that under the arrangement as it is worked out, it is very probable that, aside from a few die hard Fidelity Leaguers (and their number seems to be decreasing daily), there will be very few actors in the whole of America playing the class of productions covered by this agreement, who will remain outside the Equity Association, for the simple reason that every possible motive for staying out has been taken away from them and every possible motive for the manager trying to keep them out has been taken away from him. Understand that (except for members of the Fidelity League of September 1, 1923), every one of those outside actors, although they enjoy no personal protection from the Equity must nevertheless pay initiation fee and regular dues and continue to do so exactly as though they were members, and mind you, these payments made by them go directly into our treasury, to be expended the same as all our other

funds exactly as we see fit. They wanted to give it to the Actors' Fund, but we wanted that money in our treasury. If we want to make a contribution to the Actors' Fund, that is our business. Mark this, too: the actor must pay these dues himself, the manager being forbidden to pay them for him unless we expressly give him permission to do so. So if an outside actor has to pay exactly the same initiation fee and regular dues as a member does, why on earth should he stay outside and deprive himself of the advantages of the Association?

"There could be only one possible reason and that would be that the manager would influence him to do so and he might stay out in the hope of getting some favor or other from the manager. But will you please tell me what earthly motive the manager could have for doing this under the present agreement? What is he going to do with the actor when he gets him outside? He'll have to put him right into another Equity cast because he can't have a non-Equity one. Besides, it seems to me it would take pretty strong influence to persuade an actor to leave the Equity when he has to pay dues whether in or out, for by so doing he is very greatly restricting his field of possible activity. We have a very large number of important independent managers at the present time and under the terms of this agreement we always shall have them; and the independent actor is barred from playing with any of them besides being barred from stock.

"In this connection I wish to read you the clauses in the basic agreement covering these points, so that you may judge for yourselves whether I have correctly interpreted them to you or not." *

THE 80-20 PLAN IS SOLD

Here Emerson turned the meeting over to Gillmore, Turner, Breese and others who were to read the Basic Agreement and Contract, or their salient points. But he had acomplished a very delicate and intricate maneuver successfully. In that speech he had announced a radical change in front on Equity's part, and the applause which had punctuated his talk and had marked its completion indicated that he had carried his audience along with him.

This was no mean feat. For three years the Equity membership had been trained to believe that its salvation lay in a com-

* *Equity Magazine*, June, 1924, page 31.

plete Equity Shop, and that no plan could be devised which would be an acceptable substitute. Yet here was Emerson announcing such a substitute and making them like it. Less skillfully handled it might well have become a point on which the Association would split wide open. One of the high spots in John Emerson's career was the successful delivery of this announcement.

It was on a rising tide of excitement and enthusiasm that the reading of the contract was concluded. Endorsements were given by Stewart, Churchill and President Emeritus Francis Wilson who had just arrived; then Frayne, speaking for all the millions in the American Federation of Labor, said:

"We join with your Council and with your membership in what you are about to consummate here today. When you decide upon your policy and the manner in which you are going to govern your organization it is our plain duty to help in carrying out that arrangement, and we are going to do it.*

And so the meeting was entirely in the mood to hear the resolution to accept the Basic Agreement and Contract which was now presented by Eddie Cantor.

And when, as the records of the meeting show, "Resolution Seconded Unanimously," † the drift of the meeting was shown by Halliwell Hobbes' following remark:

"I came here this afternoon with the intention of calling for one hundred per cent Equity," he said, "but after hearing the wonderful way this contract has been gotten up and the wonderful interpretation of it, I say 'Take it as it is.'"

Still all the rocks were not passed yet. After the meeting had spun along a little further, there came the question:

"During the contemplated period spoken of in this proposed contract is it possible for us to ask pay for rehearsals?"

Emerson got up from his chair regretfully.

"I have been fearing that question for a long time," he replied. "I am so tired today that I hate to answer it, but my opinion is, ladies and gentlemen, and I think it is the opinion of our Council and of our officials (and we can tell you our reasons), that the moment you demand pay for rehearsals you are doing the greatest injury to yourselves and Equity that you can possibly do. I can explain why we think so in a few words.

* *Equity Magazine*, June, 1924, page 37.
† *Ibid.*, page 58.

"You will never get five cents more in the long run because the moment you demand pay for rehearsals, your salary would be cut. You could not stop it no matter what you did. There is only a certain amount in the pot that can go to the actors no matter what you do and there would inevitably ensue this cutting of salaries. One individual actor here and there might be able to keep his salary up, but ultimately he would have to come down because you cannot defeat an economic law.

"Now then, in addition to that, as I see it, the actor lives on his successes and not on his failures. You may have two or three failures and then a hit and you may play it for one or two years. That is where you make your money. If you demanded pay for rehearsals your salaries would certainly be cut, and when you get a long run you would have to play that long run on a cut salary.

"There is another terrible danger, and that is if such a demand were made you would concentrate in a short time the producing activities of this country into the hands of a very few rich men who could stand it, and all the new blood—the little fellow with five or ten thousand dollars—would be frozen out—and that is the lifeblood of the theatre." *

With this statement the meeting was not in complete accord, nor was it entirely willing to agree with Emerson that "The actor, on the whole, is paid a much higher salary than the same class of man in any other line of business." *

But before any particular dissatisfaction could crystallize around this argument a voice from the floor spoke up to say:

"I have an amendment which I should like to propose. I wish to compliment all who are concerned in the compilation of that admirable document. To my mind it is positively water tight, but there is just one possibility, and that is the duration of the contract—ten years; I therefore propose an amendment to the contract that it be signed for two years and—"

The further arguments of this member were lost in a confusion of voices. To this suggestion the meeting was considerably and violently opposed. Emerson pounded his gavel, and some measure of quiet was restored. Then the same member resumed where he had begun before.

"May I state my reason for the motion? It arises out of the

* *Equity Magazine*, June, 1924, page 60.

previous question regarding the question of rehearsal salary. I agree with you; I do not agree with those who require payment for rehearsals. That agreement and document is positively perfect, but there are several things—there is one possible leakage in connection with that and dodgers might be resorted to and we might get the worst end of the stick in the—"

And again confusion reigned and the arguments of the protesting member were swept away in a blast of objections. Defiantly there came from the babel:

"The contract should be signed for two years."

"Before you go any further," Emerson declared, "I wish to say we cannot get it for two years, so there is no use of discussing that."

"Give him a special one," cried a sarcastic voice from the floor.

"Give him two weeks' notice," another admonished.

"I think we all owe a vote of thanks to our President and Council for this wonderful day," cried a third.

"I am sorry, but you are out of order. Thank you very much," Emerson acknowledged.*

Then Lionel Atwill, obtaining the attention of the Chair, produced the clinching argument that if the managers were uncertain as to how they stood, many productions they might otherwise make would be held in abeyance.

There was considerable applause at the conclusion of this statement, and Emerson, sensing the arrival of the psychological moment for the vote, asked:

"Are you ready for the question? Those in favor say, 'Aye,' contrary, 'No.'"

Cries of "Question. Question." answered his query and in the vote that followed there was just one vote in opposition. The indomitable member who proposed a short-term contract had stuck to his guns to the last.

"I am very glad that it is not unanimous," was Emerson's acknowledgment to the lone voter. "I don't like unanimous votes. When a thing is said to have passed unanimously it looks as if it had been railroaded through. I am glad there was an opposition. However, the motion seems to have been passed." †

There was one grim reminder that all was not roses and honey,

* *Equity Magazine*, June, 1924, page 61.
† *Ibid.*, page 62.

for Gillmore speaking to members of the companies of managers who would not come under the provisions of this new Basic Agreement and Contract said:

"I beg to remind you that as per the resolution passed by the Council, all members playing in New York productions controlled by managers not members of the Managers' Protective Association or who do not belong to the so-called Independent group, this last named group having signed up their casts on what is termed the Independent form of contract calling for 100 per cent Equity casts, are requested to give in their two weeks' notices next Saturday, May 17th, and that those having run-of-the-play contracts advise their managers that they cease work on May 31st.

"You should keep a copy of this notice of termination and turn it over to your Deputy, who will, in turn, deliver it to the A.E.A. Headquarters.

"No future contracts with managers aligned with the Round Robin group to be signed without consulting this office."

And with this warning ringing in their ears, and somewhat sobered by it despite the exhilaration of the news of the Basic Agreement and Contract with the Managers' Protective Association, the meeting filed out into the street at five-fifteen.[12]

Equity's officers lost no time in obeying the mandate of this meeting. The next afternoon, Tuesday, May 13, at five o'clock in the afternoon the ceremony of completing the signatures to the Basic Agreement and Standard Contract with the Managers' Protective Association, was carried out in the Forty-Second Street offices of William Klein.

For the Managers' Protective Association the signees had been Arthur Hammerstein, President, and L. Lawrence Weber, Secretary. John Emerson and Frank Gillmore now placed their signatures on the document. The Chorus Equity Basic Agreement and Contract were also signed at this time with Dorothy Bryant representing that organization, adding her signature to that of the others. The signatures were witnessed by William Klein and Paul N. Turner and Edwin G. Marks, attorneys for the respective organizations, and a flock of newspaper photographers.[13]

Chapter XXXVI

"we don't care"

What may be regarded as the semi-official reply of the Round Robin Group to the announcement that Equity had signed with the Managers' Protective Association appeared in *Variety*.

"The premise of a split in the P.M.A. which has occurred," said that story, "was that Equity itself will be disaffected in the event of a fight. Equity's leaders, counting on the banding together inside the organization of about 250 'Broadway' actors and actresses to hamper the activities of the 'Round Robins,' conceded that between 3,000 and 4,000 members would be drawn away from Equity. That estimate was based on the number of members delinquent in dues and the expectation that about half the delinquent number would be whipped into line.

"The P.M.A. believe it can secure the necessary number of actors to continue producing this summer and gradually in the fall. The strike may not grow severe until the approach of Labor Day.

"The P.M.A. views the situation as an entirely different one than in 1919, when actors fought to eradicate wrongful practices. Now it appears to be a case of follow the Equity leaders, the apparent principal objective being to force members to pay dues. For that reason they believe that all actors will not placidly remain out of engagements when assured of fair treatment as in the past five years.

"The managerial opponents to Equity's plans also anticipate that the stage hands and musicians will not walk out in sympathy. Both unions have contracts with the managers extending for another year.

"Equity's agreement with the new M.P.A. provides that the actors will not participate in a sympathetic strike with the other theatrical unions and it is assumed the latter feel the same way about it, having assented to the Equity agreement. The powers controlling the musicians' union were aided by the managers early this season, when the fight between the new 802 local and the 'outlawed' 310 was on. Had not the managers stuck with the Federation of Musicians the radical element in the older organization would have gone into power.

"At a meeting in Sam H. Harris' office Monday the managers awaited the action of Equity's ratification meeting. They adjourned before the decision was known. There was no doubt about their determination to stick together against closed shop at that time, it was said." *

The cheerful sound of this defiance was marred by a discordant overtone, however. On this day Billie Burke, long a prominent member of the Actors' Fidelity League, and the wife of Florenz Ziegfeld, one of the most vocal of the Round Robins, who had asserted that he would close all his shows before he would submit to Equity's terms, made an application for membership in the Actors' Equity Association.

The very next day Florenz Ziegfeld further clarified his own position by letting it be known that "Kid Boots" which had been bowling along to splendid business at the Earl Carroll Theatre, with a hundred per cent Equity cast, would continue to the same excellent business, he trusted, through the good offices of Eddie Cantor, who would take over the production and issue Independent Contracts.[1]

It would be, of course, Eddie Cantor who would keep the production going, not Florenz Ziegfeld, and so his pledge to the Round Robin Group would not have been violated. And since Eddie Cantor was an excellent Equity member and the cast of fifteen principals and a chorus of forty-three [2] were also all members of Equity, the Association was quite willing to see its run unbroken.

GOLD STAR MEMBERS OF 1924

On Friday, May 16, the real Equity offensive got under way. On the afternoon of that day a meeting of the members of all companies controlled by managers in the Round Robin Group was called on the Hotel Astor roof. Emerson, reporting this gathering to the Annual Meeting, said of it:

"They were all there—the roll of each company was called and it was found to the great gratification of us all that every single Equity member of every single company was ready to sign his two weeks' notice to be handed in the next afternoon at the matinée performance.

* *Variety*, May 14, 1924.

"Some questions were asked at this meeting as to whether an actor holding a run-of-the-play contract should give notice, as the contract would expire automatically June 1. It was explained that, even so, it was due the manager to let him know that the actor was not going on after June 1, as he might possibly assume, if no notice were given—so these notices were also signed, and the victory was exactly one hundred per cent pure.

"One member of the 'Lollipop' company, Walter Craig, found himself in a peculiar situation. He had recently been engaged to join the company, and was not to begin work until the following Monday—so he arose to inquire as to whether he also should hand in his notice on Saturday, as in that case he would have to resign two days before he began to work. He was told his notice could go in on Monday." *

It was an enthusiastic meeting. Even those who, perhaps, could ill afford to relinquish employment voluntarily, were eager and willing to become Equity's shock troops in the fight.

For that loyalty the Council awarded each actor, actress, chorus girl or chorus man who, in accordance with the resolution of the Actors' Equity Association gave in, or was prepared to give in, his notice to take effect May 31, a gold star to be placed on his Equity Card in perpetuity.†

For the list of those who were awarded Gold Stars, according to the companies in which they played, see Appendix, Chapter XXXVI.[3]

The notices of all these players were written out and in the hands of the company Deputies on Saturday morning, but several of the Deputies were given no opportunity to turn them in. "Kid Boots," as previously explained, was placed by Ziegfeld under the protecting wing of Eddie Cantor; Marc Klaw agreed to continue "Hell Bent Fer Heaven" as an independent production in case it ran after June 1; and Winthrop Ames got what satisfaction he could out of beating the company to it, by posting a closing notice himself. Later "Hell Bent Fer Heaven" got into a booking jam and was forced to close on June 1, but this was distinctly a managerial action, and was not forced by the actors.

One other play which might have been affected was not. "A

* *Equity Magazine*, June, 1924, page 22.
† *Ibid.*, page 27.

Beggar on Horseback" was jointly owned by Winthrop Ames and Lee Shubert. As the certainty of a clash became more apparent Ames transferred his interest to Shubert and the play became an M.P.A. production. This action was forecast sufficiently in advance so that the members of the company were not requested even to prepare their two weeks' notices.

With those exceptions the Deputies of all the companies notified turned in the notices, following the matinée performances on Saturday, May 17.[4]

THE ROUND ROBINS ARE STILL SKEPTICAL

Despite the shock to the Round Robins in the prompt and unanimous tendering of the notices, there still seemed to be a fair prospect of a peaceful settlement when on Monday, May 19, Sam Harris and Arthur Hopkins again made overtures to Gillmore and Emerson. Emerson, describing the negotiations which took place at that meeting, said:

"Mr. Gillmore and I were approached by Mr. Sam Harris and Mr. Arthur Hopkins, who said that if we would give the P.M.A. the same contract we had given the M.P.A. that the P.M.A. would accept it.

"Now, mind you, this was the same contract which had been offered to the P.M.A. through a committee of which this same Mr. Harris and Mr. Hopkins were members, and which that committee had turned down flat, declaring that they would not even report it back to the P.M.A. But now that the other group comprising the new association had shown sense and reason and vision enough to accept this contract, *they* were willing to accept it—after the other fellows had done all the labor with us of getting it worked out and formulated and signed and sealed—and believe me, that was no small job.

"Lawrence Weber and Arthur Hammerstein and Al Woods and Lee Shubert worked night and day on this thing, and did their level best sincerely and honestly, to arrive at a satisfactory arrangement with us, and I don't care what you may think of them personally, or what you may think of the Round Robiners personally, I maintain that the good feeling and conciliatory spirit shown by Mr. Weber, Mr. Hammerstein, Mr. Woods, Mr. Shu-

bert and their seventeen other associates, deserve a certain amount of consideration from us, in preference to the other crowd who have fought us at every turn, have accused us of every crime in the calendar and in spite of their protestations of friendship, have done their best to disintegrate and demolish our Association.

"*But, nevertheless,* when it was intimated to us that the P.M.A. would be willing, at last, to accept the contract negotiated by the new M.P.A. we went to the leaders of the new organization and told them. We suggested that for the sake of peace it might be well for the new Association to turn their contract over to the P.M.A., now that they were apparently willing to accept it. And they agreed to do this, my friends. They said, 'We want peace in the theatre, and if the P.M.A. will accept this contract we will dissolve the new Association, turn the contract over to them, and all sign up together.' Now what more could anyone ask than that?

"*But* do you think that satisfied the P.M.A.? Not for a moment! When we told Mr. Harris and Mr. Hopkins that the other fellows were willing to do this, they said: 'Not at all! We want this contract for our own little Round Robin Group. We are going to kick these other fellows out of the P.M.A.'

" 'Kick them out?' we said.

" 'Exactly. Kick them out!' they replied.

"We were utterly amazed at such an astounding attitude. They were willing to let the other fellows negotiate such an agreement —and then they were willing to take that agreement over, and kick the other fellows out because they had negotiated it. Did you ever hear such reasoning in your lives? I never did.

"And what kind of double-crossing buccaneers do *they* think we are, that we would allow such a deal to be put over on the twenty-one managers who have, in perfect good faith, signed an agreement with us?

"When we asked for some reason for such an amazing attitude, they said: 'We don't like Lee Shubert and we won't play with him any more!' Could anything be more childish than that? Because of a petty spite against one man they were willing to throw the whole theatre into chaos, if they could.

" 'Well,' we said, 'even if you don't like Lee Shubert, what about the other members of this new Association? Shubert isn't

the whole thing, by any means. What about Lawrence Weber, what about Hammerstein, what about the Selwyns, what about Comstock and Gest and Woods and George Broadhurst and Philip Goodman, and Richard Herndon and Dolph Klauber and Charley Wagner and Mary Kirkpatrick and all the others in this new Association? Just because you have a grudge against Shubert, you want to kick them all into outer darkness and take their money from them?'

" 'Well,' they said, 'they are all wrong. They went contrary to our wishes and we're not going to stand for it.'

"In other words, these twenty-one producers had no right to an opinion of their own. They must think as the Round Robiners think, or else not think at all." *

CHARGE AND COUNTER-CHARGE IN THE P.M.A.

But the language used by Emerson was not that in which Harris announced the breaking off of negotiations.

"All efforts on the part of the Producing Managers' Association," he said, "to negotiate with the Actors' Equity Association have been frustrated by the fact that the Equity leaders have agreed with the Shubert group to make no arrangements with any other producers' organization.

"By so doing the Equity leaders have parted with the right to negotiate with any organization but the Shuberts and can only make group agreements by applying to and receiving consent of the Shuberts.

"In the making of all future group agreements concerning the Actors' Equity Association the Shuberts and their allies shall have full say. They have been vested with an executive franchise and it is theirs to use as they see fit." †

Equity was still hopeful that peace might be brought about despite the belligerence of Harris' statements, both in conference and in the press, and so Gillmore made reply, pointing out:

"The Producing Managers' Association has three courses open to it: to dissolve and join the new managers' Association; to accept the dissolution of the new managers' Association, take over

* *Equity Magazine*, June, 1924, page 22.
† *Variety*, May 21, 1924.

its agreement with Equity, and withdraw the charges against certain members; or to become 'independent' managers and sign with the actors on that particular form of contract.

"Equity is endeavoring to bring harmony into the managerial ranks, and, at the moment, it is only their own internal dissension which is standing in the way of complete peace." *

But the heads of the standpat faction of the P.M.A. were not ready to consider peace on those terms and on May 20, Harris further amplified his previous charges by saying:

"Equity leaders conspired with the Shuberts to dispute † the Producing Managers' Association. They urged the Shuberts and their allies to bolt the P.M.A. and form an organization of their own. As a reward they agreed to give the Shuberts an exclusive contract with the Actors' Equity Association, a contract which barred the Actors' Equity Association from entering into an agreement with the Producing Managers' Association or any other producers' organization.

"Equity leaders and the Shuberts believed that the entire membership of the Producing Managers' Association would flock to the Shuberts' organization. The plan failed. The Shuberts and their allies are now willing to return to the Producing Managers' Association and bring as a gift their exclusive Equity contract, if charges against them are withdrawn.

"The Producing Managers' Association stands ready and willing to negotiate a contract with the Actors' Equity Association, but it will not negotiate through the Shuberts or by arrangement with the Shuberts." ‡

This cry of "Conspiracy" was met promptly by a similar accusation from the Managers' Protective Association. The next day, May 21, Weber, addressing the executive officers of the Producing Managers' Association on behalf of the embattled minority, preferred formal charges against each of the signers of the "Round Robin" by name charging them with violating the By-Laws of the Association by meeting as they had and agreeing to actions which were clearly inimical to the interests of the Associa-

* *New York Tribune*, May 20, 1924.

† Author's Note—I have quoted the passage as it appeared in *Zit's Theatrical Weekly*. It occurs to me that "dispute" was a typographical error, and that the word intended probably was "disrupt."

‡ *Zit's Theatrical Weekly*, May 23, 1924.

tion as a whole. Erlanger and Tyler were singled out as the instigators of the Round Robin, and Harris was charged with representing the interests of this faction instead of the whole Association whose President he was. Weber demanded an immediate hearing and disciplinary action against the Round Robin members.[5]

THE ROUND ROBINS TAKE TO THE COURTS

Having evoked the ghost of a conspiracy the Round Robin Group made the mistake of believing in it. So, despite the fact that the P.M.A. in all the years of its existence had never won a major legal engagement with Equity, the Round Robins now turned to the interposition of legal barriers between the M.P.A., the Actors' Equity Association and the approaching termination of their own Basic Agreement.

Late in the afternoon of Friday, May 23, Samuel Ruskin Golding, as attorney for the Producing Managers' Association appeared before Justice John Ford, in Part II, Special Term of the Supreme Court of New York. Presenting affidavits sworn to by Sam H. Harris, Augustus Thomas and David Belasco, Golding asked for and obtained a temporary injunction which practically forbade any activities on the part of either the Actors' Equity Association or the Managers' Protective Association, or any of their members, save the processes of eating and sleeping. There is no reason to believe that these would have been excepted if the P.M.A. officials or their attorney could have discovered injunctive processes which would have served to prevent their exercise. And as the *New York Times* reported:

"Based on the declaration that restraint of trade is contemplated and that the agreement between Equity and the Shuberts and other members of the Managers' Protective Association would actually create a monopoly in the theatrical world, the injunction also carries the implication that all the defendants have already broken their contracts with the Producing Managers' Association." [6]

The injunction was made returnable before Justice Philip J. McCook, in Part I, Special Term of the Supreme Court of New York, on Monday morning, May 26.

In the meantime all the parties to the injunction remained in a

practically continuous conference over the week end. Especially all hands turned to the closest sort of study as to just what the courts had construed "Conspiracy" to consist of, and how it had been applied to combinations of this sort.

THE TRIAL BEFORE JUSTICE MC COOK

Nearly everyone connected with the suit was in the party which gathered in the big, bare courtroom on the southwestern corner of the second floor of New York's old Court House on Monday afternoon at four. The Managers' Protective Association was represented by William Klein and Charles H. Tuttle, of the firm of Auerbach, Davies and Cornell, who had fought so hard and so loyally for the Producing Managers' Association in 1919; Equity by Paul N. Turner and Justus Sheffield, with Edwin G. Marks in reserve; and the Round Robins by Samuel Ruskin Golding.

It was soon evident that Golding was depending for his proof of a conspiracy not upon the actual contract between the Actors' Equity Association and the Managers' Protective Association, itself, but upon a summary of it which appeared as the Editorial in the *Equity Magazine* of May, 1924. Under the caption: "Analyzing Equity's Victory," there had been written:

"There is more to this '80-20' agreement than appears on the surface. And while the bell ringers of those who oppose Equity may be spouting pæans at the elimination of the term 'Equity Shop' from the agreement, Equity members and the managers, themselves, realize that what Equity has achieved is, in reality, Equity Shop concealed by a set of stage whiskers.

"In the first place the full Equity quota must appear in a production before the few remaining Fidelity League members, or any non-members are eligible. With casts of from five to nine, only one non-Equity member; from nine to fourteen, two non-members, and so on.

"As an offset to this allowance of a maximum of twenty per cent of non-members in any company the agreement provides that no entire non-Equity casts, whatever, may be employed, and this is applicable whether the casts are American or foreign. This provision absolutely protects Equity against any possible diminution of its strength or vitality.

"Of the twenty per cent for whom exemptions are allowed none

may be a delinquent member of Equity, or have been dropped or expelled from Equity, and each of the non-members, before the first rehearsal, except Fidelity members, must pay to Equity a sum equal to the initiation fees and dues, and must continue to pay dues as long as he plays, precisely as though he were a member.

"Thus, practically all actors must contribute to the upkeep of the Association, whether they choose to avail themselves of the full privileges of Equity members or not.

"And actors whose aversion to Equity, and Equity principles, is so strong they would prefer not to join, even though they must pay as much as those who do, deserve to have their principles respected.

"The Round Robin Group of the Producing Managers' Association, which is still without the ramparts, has until the end of the month in which to change its mind, and join the Managers' Protective Association. Should its members fail to do so, they will find themselves classed as Independent managers. That would mean for them 100 per cent Equity casts or retirement from the theatre.

"If any of them feels that he can buck Equity today and later join the Managers' Protective Association it should be remembered that the agreement specifically asserts that after June first the new association of managers may admit members only when the written consent of the Actors' Equity Association has been filed with its secretary.

"With these stipulations in the agreement is it a wonder that the managers who signed it recognized that this was Equity Shop with, perhaps, a little window dressing?" [7]

"The signing of such a contract," proclaimed Golding, "is attempted extortion and a proposal to exact criminal tribute, and, by law, carries a penalty of not more than fifteen years in jail."

Tuttle, upon whom fell most of the burden of the argument for the Managers' Protective Association and Equity's combined defense, said of the temporary injunction granted by Justice Ford:

"It is now causing a daily loss of between $50,000 and $100,000; will jeopardize $25,000,000 in theatrical holdings in New York alone; and represents the efforts of a standpat, rule-or-ruin group to reduce the amusement profession to a state of chaos." *

Tuttle, as did Klein and Turner, emphasized the fact that one of the principal elements of conspiracy, secrecy, was utterly lacking in this instance, as the proposed terms which were finally ac-

* *New York American,* May 27, 1924.

cepted by the Shuberts had been talked about for months prior to their acceptance and the Round Robin Group had known for some time that if the Producing Managers' Association did not accept them the Shuberts and their allies meant to take advantage of them. Another structural weakness in the charges preferred by Golding, as pointed out by Emerson, was:

"Now, mind you, here was a contract which they, themselves, had expressed a willingness to accept—and yet they go down to court and represent that the contract is illegal and in restraint of trade, that it contains an extortion clause which, if their contention were sustained, would lay everyone concerned in it open to the possibility of doing a stretch of fifteen years in Sing Sing prison. And yet they were willing to sign it. Can you imagine any group of intelligent men taking such an utterly idiotic action? And yet there the papers were, with Gus Thomas' name, of all people, signed to them. . . .

"The inherent idiocy of this injunction consists in this, that if they should win it they would be much worse off than if they lost it. Because it would simply mean that we should have no agreement with anybody and that everybody would be Independent and would have to have one hundred per cent Equity casts with no exemptions whatever." *

The arguments were long and the wrangles bitter, for there was a great deal at stake. And yet when Judge McCook adjourned Court at seven o'clock that evening the Equity leaders thought they had made out a good case—thought it, however, with many qualms, for the law is an uncertain proposition at best, and they could not tell how it would interpret conditions which were perfectly clear to theatrical men, but which might not seem necessary or advisable to laymen.

Justice McCook threw a flutter into both camps when about noon on May 27, he summoned the lawyers for both sides before him. It was not to receive a decision, however, but to further enlighten the judge that the attorneys had gathered.

That was all at the time, but that afternoon a rumor coming from nowhere, apparently, swept about Broadway that Justice McCook had ruled in favor of the Round Robins—a rumor that Equity could not deny, for as yet there was no decision.

* *Equity Magazine*, June, 1924, page 24.

EQUITY WINS THE FIRST ROUND

The first flash on Justice McCook's decision broke about one o'clock in the afternoon of Wednesday, May 28, a complete victory for Equity and the Managers' Protective Association. The text of this important decision will be found in the Appendix, Chapter XXXVI.[8]

Justice McCook, considering the extent of the interests involved, felt that the P.M.A. was entitled to a continuance of the injunction only if it could prove the existence of a real wrong for which relief was required which was not available at law. But when he came to examine the evidence he could find neither such an injury nor a lack of other means by which the P.M.A. could have obtained redress without an injunction.

He thought, for instance, that the 80-20 concordat with Equity was a matter of self-protection for those managers who had signed it, which action did not deprive their fellow managers of its privileges if they chose to avail themselves of them.

Nor was he disturbed at the provisions of the contract itself, nor even with the requirement that non-members must pay dues in return for the benefits received.

Finally he swept away in one impatient gesture the objections raised by the P.M.A. to the *Equity* Editorial, by declaring: "Needless to say, it is not upon such summaries or such articles that the Court will rely, when we have before us the very language of the contract in question."

So the motion for an injunction was denied, the preliminary injunction vacated, and another injunction obtained by the Shuberts to keep themselves from being cast out of the P.M.A. while the matter was before the Court lifted also. They were now accessible to guns, traps and poison, if the P.M.A. was still out for bear.

THE STRIKE AGAINST THE ROUND ROBINS

The Round Robins got together on Thursday afternoon, May 29, to consider the situation created by Justice McCook's decision. At that meeting according to Emerson:

"Several members of the Round Robin group realize the im-

possible and ridiculous situation into which they have been led by their leaders, and are anxious to get out of it. . . . Henry W. Savage, Gilbert Miller, William Harris, Jr., Winthrop Ames, Brock Pemberton, and Dan. Kusell voted to dissolve their silly old Round Robin and allow each man to act as he saw fit. Dillingham was in England or he would have voted so, too, I am sure. But they were outvoted and obliged to stick by an agreement which should never have been made in the first place, and which has been outlawed long since by all the rules of intelligence and common sense." [9]

All that the managers who had attended that meeting would say after its adjournment, however, was that it had been decided to appeal from the decision of Justice McCook.

Even at this late date there was considerable confusion and uncertainty as to just which plays would remain open and which would close. For on the afternoon of Thursday, May 29, Lee Shubert went before Supreme Court Justice John M. Ford, seeking an injunction to prevent William Harris, Jr., from closing "The Outsider" in which Shubert held a quarter interest. In an affidavit submitted at that time Shubert declared that the play was a success and that in view of his position as a member of the Managers' Protective Association he was in a position to keep it running, and that he was anxious to have it going during the impending Democratic National Convention. To allow "The Outsider" to be closed at this time, said Shubert, would serve no real end and would result in irreparable loss to him.[10]

Justice Ford referred the matter of the injunction to Justice McCook because of the latter's greater familiarity with the theatrical situation, and Justice McCook granted one temporarily, pending the trial of the issues involved.

Harris was reported as being very willing, personally, to see "The Outsider" continue its run, but determined to stand by his pledge to the Round Robin faction and work his head off to beat himself in their behalf.[11]

Nor was it clear what was to be done about "Seventh Heaven" which had been running for nearly two years at the Booth Theatre, and which was considered at that time to have the best chance of any play on Broadway to overhaul the American record of "Lightnin'."

On Saturday, May 31, at the eleventh hour, Golden wrote to Gillmore defining his stand and eliminating his production, by declining to avail himself of Equity's offer to allow him to keep going on his word of honor that his productions would be 100 per cent Equity, and saying:

"My brother managers are trying to find a way that will be right and square, and I don't doubt that the time is not far distant when this slight unpleasantness will be cleared away.

"Until then something tells me that I'll be acting squarely by closing."

A play which had kept right on selling tickets in the face of the threatened shut down was "The Stepping Stones." Fred Stone was a part owner as well as its star, and it was a one hundred per cent Equity company. It was known that a prominent Democratic politician had bought out the house for the duration of the convention, and it was considered probable on Broadway that Dillingham might make some sort of arrangement by which the management could be shifted to Stone, as Ziegfeld had already done with "Kid Boots." In fact Stone had sent a cable to Dillingham, making an offer for the production.

At five-thirty in the afternoon of this day, Bruce Edwards, General Manager for Dillingham, advised the box office to discontinue selling tickets, and to arrange to refund the money received for advance sales. It was estimated by Henry Young, Treasurer of the Globe Theatre, that he would have to refund $20,000 for the next week alone; and that the total refund would be in the neighborhood of $100,000.[12]

And so, with no more fuss or excitement than if they were ending their runs under normal conditions, "Rain" (Sam H. Harris), at Maxine Elliott's Theatre; "The Nervous Wreck" (Sam H. Harris and Lewis and Gordon), at the Sam H. Harris Theatre; "The Stepping Stones" (Charles B. Dillingham), at the Globe Theatre; "The Swan" (Charles Frohman, Inc.—Gilbert Miller), at the Cort Theatre; "Lollipop" (Henry W. Savage), at the Knickerbocker Theatre; and "Seventh Heaven" (John Golden), at the Booth Theatre, closed up shop. The actors collected their make-up boxes and personal belongings and left quietly; there was no cheering and parading, as there had been five years earlier, and Broadway hardly paid any attention to this

strike which for five years the producing managers had been holding up as a bogey, a frightful thing which must not be allowed by the actors, if the theatre was to come through alive.

EQUITY'S ANNUAL MEETING

Sixteen hundred members of the Actors' Equity Association, including practically every member of all the companies which had been closed on the preceding Saturday night, packed the Grand Ball Room of the Hotel Astor, for the Eleventh Annual Meeting of the Association, on Monday afternoon, June 2.

That the managers still hoped the closing of these plays might seriously damage Equity's morale was disclosed by Emerson when, in referring to the closings, he said:

"Of course we deplore, naturally, and deplore very deeply, the fact that over a hundred of our people are temporarily thrown out of work and for such an idiotic reason. But, unfortunately, it could not be helped. We have tried to plumb the depths of the Round Robin intelligence, but it is utterly impossible to do so. Do you know what their leaders are thinking today? I'll tell you.

"They think this meeting is going to break up in a row, and that the Actors' Equity Association is going to split wide open because they closed six theatres Saturday night. Six theatres out of forty-seven—and that's going to demolish the Actors' Equity Association! The leaders of the Round Robin group actually believe this!

"For it is God's Truth, Children, that at the meeting of the P.M.A. held on Thursday of last week, George Tyler said in effect this: 'Wait! Wait until Saturday night! When the Equity members see that we are going to close these theatres' (you will note that he hasn't any to close, but still it's we), 'when the Equity members see that we are really going to close these six theatres, I'm telling you that you are going to see a thousand actors walk out of the Actors' Equity Association, and leave it flat.'

"That's what George Tyler said at the last meeting. It seems incredible, but that's what he said. He's been saying the same thing for a year and a half, he and Gus, and they are just exactly as right today as they have been every single time." *

* *Equity Magazine*, June, 1924, page 24.

The new gold star members heard their names read and rose by companies to acknowledge the storm of applause with which the meeting greeted them, but none of the newer names received quite the same warmth and vigor of approval which was bestowed upon the four original members of the order, Richie Ling, Lucy Beaumont, Ida Mulle and Clara Verdera, whose walkout from "Chu Chin Chow" in 1919 had been Equity's first gun of the strike of that year.[13]

While this meeting was testifying to the solidity and discipline of the Actors' Equity Association the curious fight for the right to legally assassinate "The Outsider," illustrative of the inharmony and unrestraint in managerial ranks, was being carried on before Supreme Court Justice John M. Tierney, in Brooklyn.

Although the lawyers for both sides covered a lot of other ground, the whole question resolved itself into whether or not Shubert, who, admittedly, had only a quarter interest in the production, and who did not hold any of the producing rights at all, could compel Harris, the owner of the other three-quarters and the holder of the producing contracts, to step aside and to permit Shubert to take over the production.

Justice Tierney suggested arbitration, and expressed a willingness to serve as arbitrator. This was entirely acceptable to the Shubert legal representatives, but was declined by Bickerton for Harris, on the ground that it was not a matter of dollars, but of principles. And their principles were for a closed theatre rather than a closed shop.

At first Justice Tierney reserved decision, and the actors were ordered to report as usual, while the box office continued its ticket sale. There was actually a line at the ticket window when Justice Tierney decided that on the face of the document before him, Shubert was not justified in forcing Harris to keep his play running if he did not want to.

So the word was passed to the actors, musicians and agencies and only the stage crew showed up at half hour to strike the sets and to get the theatre ready for its summer vacation. "The Outsider" (William H. Harris, Jr.), at the Ambassador Theatre, had joined the other six attractions closed by the orders of the Round Robin managers.[14]

On the same night there was opened the first play to be pro-

duced under the Equity-Managers' Protective Association Basic Agreement and Standard Contract. It was a revival of "The Fatal Wedding" at the Ritz Theatre, and Mary Kirkpatrick, sole woman member of the Managers' Protective Association at that time, was its producer.[15]

And, although John Golden had allowed "Seventh Heaven" to be closed by his refusal to guarantee its continuance under Equity Shop rulings, he did open "Pigs" with a one hundred per cent Equity cast, for a try out in Atlantic City.[16]

The meeting of the Equity Council on Tuesday, June 3, found several important matters to be disposed of. In the first place there was the question of whether or not the members of the companies who had handed in notices on the advice of the Council were entitled to immediate relief from the Emergency Fund.

Fortunately most of the productions which had closed had had good runs, and this was not a matter of pressing importance. The procedure, however, had been determined in advance, for this time Equity's organization was ready for a strike. This meeting, therefore, voted to turn over $2,000 to the Help and Aid Committee, headed by Josephine Hull, who had held that position in 1919.[17]

The Council also expressed its appreciation of the work of Emerson, who was sailing for Europe the next day, the resolution reading:

"We take this opportunity to express to our President, John Emerson, who is sailing tomorrow for Europe, our deep affection and unbounded admiration for the skillful way in which he has steered the Actors' Equity Association during these troublous months, and our lasting gratitude for the time and labor which, at great sacrifice to himself, he has given." [18]

And so Emerson sailed away for Europe and Equity and the Managers' Protective Association settled back to wait for the appeal of the Round Robin Group from the decision of Justice McCook to come before the Appellate Division of the Supreme Court.

Chapter XXXVII

FIDELITY INTO THE BREACH

On the eve of the Appellate Division's review of Justice McCook's decision the Actor's Fidelity League mixed into the fight. It is probable that its entry at this precise moment was not an accident but was intended to emphasize the fact that this was not a petty squabble between two managerial factions, but a great, solemn, moral issue involving the theatrical orbits of some of the brightest luminaries of the stage, on the outcome of which hung the unwelcome but perhaps permanent eclipse of stars of great magnitude.

For this reason Henry Miller, Fidelity's President and its natural standard bearer remained in the ranks and the action was brought by Ruth Chatterton, its Treasurer. It was not that Miller was any less interested, but he was still an active member of the Round Robins, and it would not have been quite as seemly for him to come forward when this was ostensibly an action by one group of actors against another group of actors. The dual affiliation would have been a little too obvious.

But Miss Chatterton looked all right in the part, and it was for her that Saul J. Baron appeared before Justice M. Warley Platzek, now sitting in Part I, to ask for an injunction restraining Equity and the Managers' Protective Association from carrying out their contract of May 12.[1]

To invest the application with importance supporting affidavits were filed by Minnie Maddern Fiske, Margaret Anglin, George M. Cohan, Holbrook Blinn, Howard Kyle, Blanche Bates,[2] and Louis Mann.[3]

And if Miller was not carrying flags he was right behind the charge, for at the same time he issued a statement declaring that while certain of Fidelity's members had actually been deprived of employment since June 1, because of the Equity-M.P.A. agreement:

"We are not fighting our individual battle. We do not stand

for the members of Fidelity but for the open shop in the theatre. We don't want any agreement with any managers except as to certain business details. We stand for 100 per cent freedom in the theatre. The Shuberts and Equity stand for 80 per cent expediency and 20 per cent principle." *

At the moment Justice Platzek had only the Fidelity side of the story before him and he signed an order directing Equity and the M.P.A. to appear before him on June 16, to give reasons why such an injunction should not be granted.

But in the meantime the Appellate Division, consisting, at this hearing, of Chief Justice Clarke and Associate Justices Dowling, Smith, McAvoy and Martin had heard the arguments on the appeal from Justice McCook, and Justice Platzek accepted Equity's arguments that although the suits were separate the issues were precisely those of the Round Robin suit.

Justice Platzek therefore advanced the actual hearing on this matter until June 30, by which time the Appellate Division would either have handed down a decision or adjourned for the summer.

So far so good, for Equity. Its arguments seemed to be in a fair way to be sustained. But Equity has always been rather inclined to feel uneasy as to the interpretation which may be given to actions which seem to it to be perfectly simple, straightforward and equitable, by Judges unacquainted with the peculiar problems of the theatre. And in this instance it did not think it ought to be found unprepared for any decision which might come either from Justice Platzek or from the Appellate Division and so the Council, on June 17, passed a resolution under which, in case the 80-20 plan was outlawed an immediate and full Equity Shop would be instituted, with no allowance for either Fidelity or conscientious objectors.[4]

But this weapon was never unsheathed for on June 27, having considered the Round Robin appeal for exactly two weeks, the Appellate Division by a unanimous vote and without a written opinion, sustained Justice McCook and denied the motion for an injunction.

Fidelity seemed to see in this decision greater need for legal protection than before, for Samuel Ruskin Golding, upon whom devolved the presentation of Fidelity's arguments as well as those

* *New York Times*, June 12, 1924.

of the Round Robins, told Justice Platzek three days later that whereas on June 1 he had maintained that the Equity-M.P.A. agreement contained a threat of injury to independent actors, the threat had materialized and Fidelity members were now uncertain as to whether they could expect any employment next season.[5]

And Equity was even more insistent that although the principals might be new the principles were the same as in the cases already passed on by Justice McCook and the Appellate Division.

Equity was on tenterhooks, though the hooks were perhaps less keen than they had been before the initial victories, for another week. Then, July 8, Justice Platzek handed down his decision, another sweeping victory for Equity. The papers submitted by Fidelity had not established material facts which differed sufficiently from the previous action of the Round Robins to justify a departure from the precedent it had created.[6]

Both the Round Robins and Fidelity refused to acknowledge that they had reached the end of their string and asserted an intention of carrying their appeals to the highest courts in the state. But actually they had at this time shot their legal bolt and, though Equity could not know it, the legal test of Equity Shop had been passed with flying colors.

DISCORD IN THE ROUND ROBIN NEST

The real question at the moment was what the Round Robins were going to do about it. Were they going to accept the peace overtures which had been made from time to time, withdraw the charges against the members of the M.P.A. and welcome that strayed flock to the P.M.A. fold once more? Or would they, on the other hand, dissolve their own organization and, with Equity's consent, apply for admission to the Managers' Protective Association? Or would they seek to negotiate another similar agreement for their own group? Or would they simply do nothing and when it came to producing again do so as independents with one hundred per cent Equity casts? These were all possibilities, and no one knew what they would do—least of all the Round Robins themselves.

There was a meeting of the Producing Managers' Association, which by this time really meant the Round Robins, in the Harris office, on July 11. It was pretty generally accepted that one or

another of these courses would be adopted and that failing to decide on one of them would mean a definite split of several prominent producers from the group. Brock Pemberton, Arthur Hopkins, David Belasco, Henry Savage and Sam Harris were reported to be making agreements with actors for next season and many of the producers, even the fanatics of the group, were known to have kept their producing organizations intact.[7]

As a matter of fact David Belasco, one of the staunchest and pattest of the staunch standpatters, had already taken a most compromising step in signing Judith Anderson to a long term contract. And Miss Anderson, who had come from nowhere to stir Broadway with her work in "Cobra" during the past season, was a member in good standing of the Actor's Equity Association, and as such could only work in companies and for managements which were in accord with her Association. Whatever the plans which were involved in her agreement with Belasco, that agreement could not but produce qualms among his partners in the Round Robin agreement.[8]

And yet the Round Robin meeting did none of these things which had been predicted, but sounded the old battle call with all the not inconsiderable strength of its lungs.

Several voices were missing from the chorus, for when permission to withdraw was given any of those who had signed the Round Robin, but who did not wish to go through with it any longer, Winthrop Ames, Henry W. Savage and Brock Pemberton availed themselves of the opportunity. But the rest almost made up in volume for their defection. Their declaration that:

"The only decision reached was that all existing contracts between their members and actors will be carried out and that in order to do so, the members will engage companies for plays under the form of actors' contract in force during the five years preceding June 1, with such suitable modifications as experience during that time indicated as advisable" * was practically tantamount to a declaration of a new Holy War upon Equity, its policies and its allies.

* The names of the signers of this declaration as given out were: David Belasco, A. L. Erlanger, George M. Cohan, Henry Miller, Gilbert Miller, Charles Coburn, Sam Harris, Lewis and Gordon, Marc Klaw, Wilmer and Vincent, Max Marcin, William Harris, Jr., Charles Hopkins, Arthur Hopkins, Abe Levy, George C. Tyler, Charles B. Dillingham, Wagenhals and Kemper and John Cort.—*Equity Magazine*, July, 1924, page 40.

But though the Round Robins could take such an unequivocal stand they couldn't hold the pose. Individual managers kept making suggestions to Equity, or allowing it to be known that they would be receptive of counter-suggestions. And among these was no less than Sam Harris. He was willing to carry back to his group a plan which, in its essentials, was this: "To dissolve the P.M.A. and to form another managers' organization which would receive the same contract as that given the Managers' Protective Association."

There was nothing in this to frighten Equity. It had, it is true, joined forces temporarily with the M.P.A., but that was from a desire to protect the members of the latter body from punitive action for negotiating a peace with Equity and not from any particular ill will toward the Producing Managers' Association. And Emerson, from abroad, had concurred with the scheme by cable, and so Gillmore, Turner and Ralph Morgan, who was serving as President pro tem, decided to go ahead.

AND DISSENT FROM LEE SHUBERT

But as a matter of courtesy to the Managers' Protective Association Gillmore got in touch with its officers and asked whether they would be willing to agree to such an arrangement. Hammerstein, Weber, Brady, Woods and Selwyn were, but thought that Lee Shubert, the real guiding spirit of the M.P.A., who was also in Europe, ought to be consulted. They even went so far as to send a cable advising him that the existing booking situation was unsatisfactory and that they, with Gillmore, suggested letting the Round Robins have their contract if the latter would agree to a pro rata division of the treasury of the Producing Managers' Association. If those terms could be arranged, they thought, peace could be brought about in a week.

Shubert, however, was violently opposed to any such plan. He had stood by Equity when it needed him, was his reply, and he expected Equity to stand by him now. He knew these managers, he said, and if Equity didn't weaken, they would either have to join his Association or else get along as independents with one hundred per cent Equity casts. Or in view of the recent court de-

cisions it would be a dignified and proper procedure for the P.M.A. to accept the dissolution of the new Association and take over its Basic Agreement with Equity.

His real fear was expressed in another cable to Weber the same day: that because of what the Shuberts had done to the P.M.A. the other managers would combine to ruin them, unless restrained by some such rules as had been incorporated in the Constitution and By-Laws of the Managers' Protective Association.

Now Equity did not want to hurt the Shuberts or to put them in a position where their foes could make targets of them. But Equity felt that the policy of dealing with just one manager's association had been definite only up to the first of June, and had been kept open longer than that only by courtesy. Furthermore Equity did not feel that in signing the Basic Agreement with the Managers' Protective Association that it had become a tail to the M.P.A. kite. Its first interests were to its own members, not to any manager or group of managers. And if the Round Robins, equally fearful of what the M.P.A. might do to them if they came in to that organization, did not come in and would not come in, then Equity was under no obligation to make them. So the Council endorsed the proposition and told Gillmore to continue his negotiations.[9]

Sam Harris and Arthur Hopkins met with Gillmore at his home on the evening of July 23, and before the meeting was adjourned an agreement had been reached that a special meeting of the P.M.A. should be called by Harris the next afternoon at which the Equity offer of a contract similar to that of the M.P.A. would be submitted. And both managers promised to do their best to have the proposition accepted.* As things were going then it really seemed that the sun of peace, in eclipse in the theatre for longer than the oldest inhabitant liked to think about, was finally on the point of dawning once more. The people of the theatre were used to these false dawns, but they thought now that there really was light behind those dark clouds.

* Gillmore's memory is that he was alone at this meeting but Turner says he was there and that the meeting was an angry one and the attitude of the managers was "arbitrary and ugly." It is his feeling that the promise came from necessity and not from any desire for harmony.

GILLMORE'S ILLNESS

With affairs at this delicate pass Equity suffered a loss which might well have been irreparable. The strain of the meeting with Harris and Hopkins in his home had left Gillmore very weary and quite hoarse. Mrs. Gillmore insisted that he retire immediately.

Very early Thursday morning he woke with blood streaming from his nose and throat. Far up in his head a blood vessel had burst and his condition was soon serious.

Recognizing the gravity of the situation Dr. Kahn, Gillmore's personal physician, summoned a specialist, Dr. Arthur S. Wilson. The hemorrhages recurred at intervals all day Thursday, and that evening Dr. Wilson recommended the removal of his patient to the Manhattan Eye, Ear and Throat Hospital.

Gillmore's condition excited great uneasiness at this time, for as yet the physicians had been unable to stop the hemorrhages and he was losing a great quantity of blood.

Mrs. Gillmore had gone to the hospital with her husband and had been joined there by their daughter, Margalo. One or the other remained with Gillmore until he was definitely pronounced out of danger.

That was not accomplished quickly, however. Loss of blood did not cease finally until the following Sunday morning. That day Gillmore rested comfortably for the first time since the onset of his attack. His improvement continued during the day, and Monday he was able to receive nourishment.

His blood supply had become so depleted by that time, however, that his physicians concluded that only a blood transfusion could save his life. This was administered on Tuesday, at which time he received a quart of blood. And he was then pronounced definitely out of danger for the first time.[10]

Gillmore was badly needed at this time, too, for despite the auguries for fair weather with which the meeting at his house had closed, storm clouds still hung low over the theatre and constantly emitted grumbles of thunder and sulphurous flashes of lightning.

It was not the fault of Harris and Hopkins. Harris did call the meeting he had promised and the arguments in favor of ac-

cepting Equity's offer were well urged. In general the meeting was favorable to such action, but there was a group of irreconcilables which felt very warmly about the whole matter. It was strong enough to block definite acceptance at the time and warm enough—chiefly regarding the protection to be accorded Fidelity —so that the meeting was ended by a walkout on the part of Henry Miller, Cohan and Belasco, and the latter went from the meeting to his bed with a high fever.[11]

SHUBERT CONSENTS—TOO LATE

Even so the situation seemed distinctly more hopeful to Equity. The opposition was down to a comparatively small number and there was a possibility that they could be brought around. Meanwhile it did not want to leave any scars behind, and it much preferred to get Lee Shubert's blessing if it could be obtained.

But Shubert remained highly unconvinced and continued to reply to all Equity overtures in the negative. Seeing that they were not getting anywhere in this exchange of cables, Dullzell set Emerson on Shubert's trail and Equity's President cut into his own holiday to go to London to see the newest standpatter.

His mission was successful. Shubert was willing that the Producing Managers' Association should have his contract—if his group retained its membership, or pending his return he consented to allowing the Round Robins to have the same terms as individuals, without recognition as another organization.

But it was too late. Before these terms could reach embattled Broadway the managers, pro- and anti-Shubert, had succeeded in snarling the negotiations past all untangling.

The P.M.A. held a general meeting on July 22, to which were bidden not only the Round Robins and the Shubert group, but also the small group which had managed to remain outside both factions—a very difficult feat.

Prior to that meeting the Managers' Protective Association held a party caucus and decided that in the absence of Lee Shubert, who had done most of the negotiating with Equity and who was known to be in opposition to this merger, the M.P.A. ought not to commit itself definitely to any arrangement. For the purpose of this meeting Brady was selected as spokesman.

Right off the reel the meeting ran into difficulties. Augustus Thomas was in the chair and his presence was not welcome to the Shubert faction. They felt that his rulings had consistently favored the Round Robins. It was one of these, in fact, which had broken up the last such general meeting.

That had been the previous May while the Producing Managers' Association had been engaged in the extraordinary feat of attempting to hold the Managers' Protective Association within its ranks (that the latter might not be free to negotiate with Equity), while at the same time trying to kick it out into the gutter (so that the forfeits and contributions to the war chest might be taken from it).

The meeting had scarcely been called to order when Klein announced that he held a proxy for A. H. Woods who had just sailed for Europe. The right of Woods to be thus represented was immediately challenged and Thomas had ruled that he might not be.

Klein, at that time, had argued that he could; and had remarked with some force that he ought to know what could and could not be done under the by-laws of the Producing Managers' Association since he had helped to frame them, himself.

But Thomas had stuck to his guns, refused to accept the proxy, and the meeting had been practically adjourned by the walkout of the entire Managers' Protective Association in a body.*

Now that ruling had not been forgotten and as soon as the P.M.A. convened again, Hammerstein challenged Thomas' right to preside. The fact that the objection was voted down forthwith and that Thomas continued to occupy the chair did not do much to clear the air.

Getting down to the business in hand Thomas remarked that he understood that the members of the Managers' Protective Association intended to resign from the Producing Managers' Association. That brought Brady to his feet.

"Nobody has the right to say that the Shuberts or any other manager in the Managers' Protective Association has agreed to resign," he declared.

"That is the information which is supposed to have been con-

* *New York Tribune*, May 27, 1924.

veyed to Sam H. Harris and others, from L. Lawrence Weber," Thomas retorted.

Now it was Weber who seized the floor to rephrase the statement according to the agreement with Equity. And then Brady, once more, to declare that such a move could not be voted on in the absence of Shubert and to propose that the meeting be adjourned until Shubert's return.

It was only a suggestion, but the meeting seemed to feel that it had the force of a motion, for it was seconded and passed. The great reconciliation scene was cut off by a descending curtain within ten minutes of its opening.*

THE ROUND ROBINS SURRENDER AT DISCRETION

With this meeting gone the way of so many other P.M.A. meetings the Round Robins reconvened in Sam Harris' office and there proceeded to vote to produce on any basis they could—open shop, preferably,—a purely formal gesture—but as independents using Equity contracts and with one hundred per cent Equity casts, if need be.

So passed what was probably the best, certainly the last chance the Producing Managers' Association had of retaining its entity as an organization. The clash of conflicting interests and personal jealousies had once more proved stronger than the common bond of producing interests. To all intents and purposes this was the blow which slew the Producing Managers' Association. That it lingered four months longer was due rather to a quarrel among the heirs as to how the estate should be divided than to any real life in the patient.

Now that the Round Robins had laid down their arms the work of reconstruction went forward rapidly enough. Actors received their notices to report at once, and by the end of the week a number of productions were in rehearsal, including practically all of those whose runs had been curtailed by the strike on June 1.

There was one feeble gesture of defiance, in that certain of the managers attempted to engage their casts on the old form of contract (the A.E.A.-P.M.A. contract which had terminated June 1). On August 1, Dullzell, Turner and Morgan stepped

* *Variety*, July 30, 1924.

in and notified the managers that the new independent form must be used which obligated a cast one hundred per cent Equity and one hundred per cent in good standing.

"No," protested Harris, "in my negotiations with Mr. Gillmore there was an understanding that, pending a final settlement, members of the Producing Managers' Association could continue to issue the old A.E.A.-P.M.A. contracts."

"Have you got it in writing?" demanded Dullzell.

"None of it was in writing—it was all a verbal agreement, but it is just as binding," returned Harris.

Gillmore, of course, was still in the hospital and in no condition to be consulted. The only other person who might have an inkling of such a promise, Emerson, was at this moment on the high seas, on his way home.

Permission to have issued the old A.E.A.-P.M.A. contracts would have established a precedent with dangerous potentialities. Dullzell put his foot down.

"The only contracts Equity will recognize," ran his ultimatum, "are those issued by the Managers' Protective Association—and the independent forms."

That was the final flare-up. The casts were already in rehearsal, in most instances sets, costumes and bookings had been arranged. The managers were in no position to call everything off and stand upon a non-existent agreement, for Gillmore had made no such promise. They surrendered at discretion and rehearsals went forward without interruption and with one hundred per cent Equity casts working on independent contracts.

AN OLIVE BRANCH TO FIDELITY

This capitulation left the Actors' Fidelity League in a most unenviable tactical position. The managers most friendly to them were, for that very reason, outside the camp of the Managers' Protective Association and unable to avail themselves of the twenty per cent exemption.

There was still the alternative of trying to get together entirely non-Equity casts. But Henry Miller had tried that experiment back in 1922-1923 when Fidelity was much stronger than now and after one season he had abandoned the scheme and had gone

back to mixed casts. So it looked as though the members of Fidelity would have to choose between principle and expediency: either join Equity or look forward to retirement from acting.

Fidelity was expecting Equity to apply just such pressure. Even before Equity took the step which removed their last opportunity to dodge Equity Shop, a meeting of some hundred and fifty to two hundred Fidelity members had been advised by Miller:

"I have seen many of our members forced to desert this organization and join the iniquitous upholders of the 'closed shop' in order to earn their daily bread, and, therefore, I say to you if you, too, are forced to pay Equity's extortionate price, do so, but remain faithful to Fidelity in your principles. Figure it as a gratuity you would toss to a beggar." *

In practically all struggles of this nature the victors go out for the last bit of spoils in sight, and labor organizations, almost without exception, insist that all dissenting organizations shall disband or join the triumphant union.

But Equity was not out for vengeance on Fidelity and it was rather more interested in establishing a stable and permanent peace in the theatre than it would have achieved through forcing this handful of reluctant and recalcitrant Fidelity members to join it.

What it was prepared to do was determined at the Council meeting of August 12, the first one held after the return of Emerson from Europe. It was evolved during his visits with the now much improved Gillmore who, though he could not attend the meeting, had drafted the plan.

His memorandum, read by Emerson, began with a vigorous denial that he had ever promised that Equity would not come to any agreement with another body of managers save with the consent of the Managers' Protective Association. All that Equity had promised, said Gillmore, was that it would not grant terms more favorable to any other group of managers without immediately extending those terms also to the M.P.A. But there was no promise that other groups might not have almost as good terms or even the same ones. If Lee Shubert had understood otherwise that was just too bad.

* *Equity Magazine*, September, 1924, page 8.

Referring to Shubert's suggestion that the individual Round Robins be given the 80-20 agreement, Gillmore thought not. They would by this arrangement get all the benefits of the M.P.A. without any of the latter's responsibilities.

"I am not, however, averse to Equity making a big, broad, generous gesture," wrote Gillmore, "and exempting from the scope of all first class productions the nominated list (of Fidelity members), included in the agreement with the M.P.A., plus those who can prove themselves to have been in good standing, i.e., paid up members of the Actors' Fidelity League, on September 1, 1923. I think that an action such as this might save us from further law suits and perhaps bring us the commendation of the public." *

Neither was the Council, for it proceeded forthwith to vote an amnesty to practically all those actors who had fought so long and so hard to defeat and destroy the Actors' Equity Association.

There were few strings to the offer. The producing managers were notified that in first class productions (aside from those controlled by members of the Managers' Protective Association), Equity members would work with the present members of Fidelity who were in good standing on September 1, 1923. It was stipulated that no Equity member might be replaced by such a Fidelity actor unless he withdrew voluntarily from a cast, but that restriction was not likely to cause much embarrassment. And in a burst of generosity Equity, in a postscript, even relieved most of the prominent Fidelity members of the necessity of proving their good standing, by saying:

"P.S. In order to establish beyond question what actors were members of the Fidelity League in good standing on September 1, 1923, the Equity Association will insist that the officials of the Fidelity League prove such membership to the satisfaction of our auditor, with the exception of the following named artists, whose good standing in the Fidelity League is accepted without question by the Equity: Margaret Anglin, Fay Bainter, Blanche Bates, Amelia Bingham, Holbrook Blinn, Ruth Chatterton, Charles Coburn, Mrs. Charles Coburn, George M. Cohan, William Collier, Laura Hope Crews, Minnie Maddern Fiske, Grace George, May Irwin, Howard Kyle, Louis Mann, Henry Miller, Otis Skinner, Frances Starr." †

* Gillmore memorandum to the Council, August 12, 1924.
† *Equity Magazine,* September, 1924, page 9.

THE CLOSED PLAYS REOPEN

With these moves out of the way the new season got under way rapidly. It was a source of particular gratification to Equity that every one of the plays closed June 1, was reopened, and that in each case every member of the original cast who desired to return had his part.

"The Swan" was the first to make its appearance. Its first performance of the renewed run was at the Empire Theatre, New York, on August 25. On that occasion Emerson sent the following telegram to the Deputy of the company:

"The Council of the Actors' Equity Association salutes the members of 'The Swan' company. Because of your courage and sacrifice you have not only won the admiration of your fellow members but have established the principles on which alone we can survive. Congratulations and best wishes for a long and prosperous season.[12]

Similar telegrams were sent to each company as it reopened. And those openings came thick and fast. On Labor Day, September 1, no less than four were launched. They were "Rain," at the Gaiety Theatre, New York; "Stepping Stones," at the Globe, New York; "The Nervous Wreck," at Newark, New Jersey; and "The Outsider," at Boston, Mass.

A week later, September 8, "Lollipop" took up the trail at Hudson, N. Y., and "Seventh Heaven" resumed work in Chicago on September 14. Thus the Producing Managers' Association had surrendered at discretion and without stipulation.[13]

FIDELITY LAYS ITS CARDS ON THE TABLE

The arrival of the new season, of which these companies were harbingers, brought the struggle of the Actors' Fidelity League to maintain some measure of independence to a head. For, with the gathering of casts for rehearsals, it was inevitable that some members of Fidelity should claim exemption from the necessity of joining Equity because of that membership, thereby precipitating the issue as to who was and who was not in good standing in that organization on September 1, 1923.

In advance of an actual showdown Fidelity strove to avoid

the humiliation of a check up, and advanced various plans which it hoped might proved acceptable as substitutes. There was a list of three hundred and eighty-nine names, which had been prepared by Miss Chatterton as the membership of the League at the time of the suit in the previous June. Fidelity suggested that this be accepted as prima facie evidence of membership.[14]

But the Council felt that the exemption which went with this membership ought to be established by more conclusive proof than claiming.

No sooner was that disposed of than John A. Pryor, now the Fidelity Executive Secretary and Treasurer, sent Equity a list of one hundred and fifty names to whose good standing as of June 1, 1923, he offered to certify. But that wasn't quite satisfactory yet, and Dullzell informed him that only through the examination of the Fidelity books by a certified public accountant, would Equity be really satisfied.

This was a bit hard for Fidelity to swallow, but Pryor tried to put the best face possible on it. He notified Equity that one of his members, Loretta Healey-Howson of the cast of "Laugh, Clown, Laugh" wished to claim exemption and that he would be willing and able to substantiate her claim if Equity's auditor would call on him in his office in the Henry Miller Theatre Building, next morning.

Frank Mesurac, Equity's official auditor, took with him a note saying that Equity was willing to make an exception because of the exigencies of the case, but that Fidelity must arrange to have all other claims handled at one time.

Fidelity, however, much preferred the method of having Equity's auditor make a special trip to check up on each individual member as the need might arise for Pryor's letter of reply, instead of making the arrangement suggested, submitted another list of six names, all of whose claims, said Mr. Pryor, he could substantiate just as easily as he had Mrs. Howson's.

Equity was emphatically not content with this arrangement nor did it like the way in which Pryor had declared he had permitted the search of Fidelity's records because Equity had Mrs. Howson under duress. Neither was Equity pleased with the facilities for proving membership which had been placed at Mesurac's disposal.

In short, it didn't like the way Fidelity was going about this thing, at all.

So Dullzell wrote again saying that Equity was through with this piecemeal stuff and that, aside from the exempt list established in August, to which were now added Ina Claire, Ben Jonson, Sidney Toler and Lenore Ulric, Equity would not recognize anybody else as a member of Fidelity entitled to exemption until the whole list was examined and certified to in a manner satisfactory to Equity.

Fidelity had reached the end of the trail. A few days later it nominated Price, Waterhouse and Company, certified public accountants, as its representative in the audit. Mr. S. Carlisle of that organization and Mesurac went into immediate conference as to "Who's Who in Fidelity."

The work was done carefully and painstakingly. Each of the names was checked to a respective membership card in the files of the League; the sequency of the membership periods was scrutinized on each card; the recorded payment of dues made by each member for the focal year, 1923, as well as for subsequent periods, was traced to the financial records of the League, and these, in turn, were absolutely proved with deposits, in the full amounts, as made in the Fifth Avenue Branch of the Guarantee Trust Company. In cases where authentic bank statements were not available Mesurac called at the bank and had it certify to the auditors in writing the amounts deposited by the League.[15]

The Council was quite willing to give the benefit of the doubt to certain Fidelity members who were, apparently, honestly exempt, but who, because of the condition of their records were not in a position to prove it. But it had also in mind the fact that its Basic Agreement with the Managers' Protective Association had authorized a definite way of proving Fidelity membership which could not be followed in these cases.

And if Equity meant to hold the managers to a strict observance of this Basic Agreement it had better not set the example of breaching it, even technically. The M.P.A., through Weber, was very willing to give formal permission and legal percussions from this source were consequently eliminated. Not so long afterward Equity had reason to be glad of its scrupulousness in

this matter. It was necessary to do considerable digging to get from Henry Miller an affidavit that Fidelity's books prior to June 1922 were either lost or destroyed, but late in December it arrived to settle for all time the future of the Actors' Fidelity League.

Before leaving it, however, a brief review of the membership claims of this organization may be of interest. During the strike Fidelity claimed a membership of nearly two thousand. And even as late as June, 1924, Miss Chatterton had declared that it had four hundred members in good standing. The list submitted by Pryor to the accountants contained one hundred and sixty-six names. And now, after the smoke of battle had lifted, there were found to be: Twenty-three exempted, without proof, by Equity; eighty-three whose membership as of September 1, 1923, could be proven; seven in good standing without the knowledge of Fidelity officials; three life members unable to prove their good standing but accepted by Equity anyhow; and fifteen life members, doubtful though claimed, who were now exempted by the waiving of the necessity for proof on the part of both Equity and the Managers' Protective Association—a total effective membership as of September 1, 1923, of one hundred and thirty-one.

For the full membership list of Fidelity, see Appendix, Chapter XXXVII.[16]

Since that time death and resignations have brought that number down to approximately one hundred, and although the Actors' Fidelity League may continue as a social organization indefinitely, it is permanently eliminated as a factor in the legitimate theatre.

END OF THE PRODUCING MANAGERS' ASSOCIATION

Since the middle of August the eventual dissolution of the Producing Managers' Association had been only a matter of time. It was demonstrated at that time that the fundamental differences in policy and the scars of old antagonisms went too deep to hope to get the managers who composed it together in one organization for years to come.

And, short of having all the managers in one organization, Equity was quite as willing to see all those not in the Managers' Protective Association without any organization at all. From

the tactical point of view any individual manager is easier to argue with than a group, and contract changes do not have to be negotiated with independent managers. In 1924, at any rate, Equity did not see where it stood to gain anything by arranging another contract with the Round Robins, or anyone else.

Nor did the managers feel the need for further protection from Equity. That association had already indicated that it had no intention of using its new power harshly or vindictively. And its exemption of the Fidelity membership and its allowance for conscientious objectors left the managers outside the M.P.A. practically as free as those in it in the selection of casts. Besides, if they felt any desire to join the M.P.A., even at this date it would be possible by applying for membership and securing Equity's consent. They were quite generally willing to go their way as independents.

The magnet which had been holding the Producing Managers' Association in the interim was that little matter of the quarter of a million dollars which was in the Treasury, or that portion which might remain when the expenses incurred by its war on Equity had been footed up and paid. That, and the manner of its distribution!

The negotiations on these points went on quietly for about two months and by October 20 an agreement had been reached which was satisfactory to all—and it had been reached amicably! There was really nothing more for it to do but wind up its affairs decently and in order.

The Producing Managers' Association met for the last time in its corporate existence in its offices at 231 West Forty-Fifth Street on October 20 to pass a sentence of self-annihilation in one of those ten minute sessions for which it had become famous. John L. Golden, whose luncheon at the Hotel Claridge almost six years ago to the day had brought the organization into existence, now presented the resolution which marked its passing.[17]

AND A FUNERAL ORATION

The dissolution of the Producing Managers' Association drew only casual comment from the press which had considered it practically defunct for some time now. It was worth more no-

tice than it received for it was a fine example of a good thing gone wrong. In what amounted to a funeral oration the *Equity Magazine* analyzing the potentialities and accomplishments of the P.M.A. said:

"The star of the Producing Managers' Association has set within the past month, probably never to rise again. There will be few to mourn its passage, and those few will regret not so much its going, as the fact that so much potential good was allowed to waste away unregarded.

"As originally conceived the Producing Managers' Association was founded to consolidate the managerial interests in the theatre and to form a channel through which the forces of the theatre might find an uninterrupted and untroubled passage to the sea of accomplishment. At the height of its power and influence it contained nearly every important producing factor in the theatre.

"Had it chosen to confine itself to its original ideal the Producing Managers' Association might have been a great force for good in the theatre. And if it had taken that path it would have been alive and prosperous today.

"But, almost from its inception, the Producing Managers' Association became the greatest obstacle to peace in the whole theatre. All its powers were directed towards the destruction of the Actors' Equity Association, and the subordination of the actor to the unhonored and unconsidered position he had held before the rise of Equity.

"It became, in the hands of its controllers, an engine of war, pure and simple. And when it was beaten from those hands, and they were rendered impotent for further damage, it was so warped and twisted from its original purpose that it was fit for nothing but the scrap heap.

"There is talk of the formation of a new body, to be limited to producing managers only, and which will be concerned with the problems common to production. The existence of such an organization would not be unwelcome to the Actors' Equity Association.

"There is room in the theatre for an organization of managers which will work in harmony with the actors in solving the problems with which the theatrical profession abounds. The course of the Managers' Protective Association is sufficient proof of that.

"But there is no place for any belligerent and intolerant group organized to rule or ruin. It is to be hoped that the passing of the P.M.A. has not been in vain." *

* *Equity Magazine*, November, 1924, page 5.

Chapter XXXVIII

AT THE THRESHOLD OF A NEW ERA

Well, the Producing Managers' Association was dead. No doubt about it: dead and laid out in its shroud waiting for its legal interment. For the first time in years, probably for the first time in the history of the Actors' Equity Association, its Officers and Council were not obliged to walk warily, with muscles tensed for offense or flight.

At the beginning of the new year Equity stood on the threshold of a new era in the theatre. It might well have paused to reckon up its accomplishments in the eleven and a half years of its existence; and to count the tasks which yet lay ahead of it.

Its accomplishments had been enormous. In the abuses it had rectified and the protection it had erected for the actor Equity had justified its right to life if nothing else were counted. To recapitulate briefly, then:

There had been no standard contract when Equity was formed. There was now a standard form for each class of production. These forms were in general use and precedents had been established governing almost every conceivable emergency which might affect their use.

The only recourse from the decision of a manager had been an appeal to the courts; too slow, too expensive and too dangerous for most actors. Arbitration of contract disputes was compulsory now, and the application of Equity Shop insured the acceptance and fulfillment of awards.

There had been no limit to the amount of free rehearsals. Now the limit was four weeks for dramatic productions and five for spectacles and musical productions.

Salaries, when paid at all, had been paid on the Tuesday or Wednesday of the week following that in which services had been rendered. They were now regularly paid on the Saturday night of the week in which rendered.

Where unscrupulous managers had gambled with the time and

talents of their actors and had paid them last of all their creditors; now managers not members of the M.P.A. or known to be reliable, were required to post bonds sufficient to guarantee two weeks' salary to the cast.

Strandings had been fairly frequent, and when they occurred the actor was abandoned to his own resources. When that happened now (and it was only occasionally), the actors were brought back to the point of organization by Equity.

The actor was frequently required to pay transportation to the point of opening and from the point of closing. Now the management paid all transportation charges, except when an actor gave in his own notice, in which case he was still responsible.

Where once, not so many years previously, the actor or actress had furnished all modern wardrobe and was frequently required to furnish it for costume plays as well; the obligation now rested only on the actor, and on him to the extent of morning, afternoon and evening dress as customarily worn by civilians of today in this country. The actress received all articles of costume from the management.

Though once companies and individuals might be laid off at any time without salary; now engagements were considered to be consecutive and layoffs, unless for reasons stipulated in the contract, or approved by Equity's Council, must be paid for.

As many as fourteen performances a week had been required from casts which had received no extra compensation; now it was established that not more than eight performances constituted a week's work; and all extra performances must be paid for at the rate of one-eighth of a week's salary for each.

There had been several weeks in each season, notably the week before Christmas, Holy Week, Election Week and, in some instances, the first two weeks of a season, in which half salaries were customarily paid; there was now no such thing as half salary permitted at any time.

Salaries were often cut without notice; now two weeks' notice of such a cut was required, and if the actor involved was not willing to accept it he was entitled to two weeks' notice and, if on the road, to return transportation to the point at which he was engaged.

An actor could be dismissed at any time during the rehearsal

period without pay for the services he had rendered to the time of his dismissal; there was now a probationary period of seven days for dramatic productions and ten days for musical attractions, during which either the actor or the manager was at liberty to dispense with the other; at the end of that probationary period either must give the other two weeks' notice or two weeks' salary.

And, finally, it had been not only possible, but customary to close whole companies without notice and with pay, if any, only to the date of closing; there was now established the ruling that aside from the first four weeks of a new play's run, when it might be closed at any time, provided two weeks' salaries have been paid, the company must have one week's notice and any individual actor two weeks' notice of closing.

HOW STOCK COMPANIES BENEFITED

Abuses in the field of stock companies were neither so numerous nor so serious as in productions, even prior to Equity's advent, because a stock company is a permanent organization which a manager has to keep going in order to remain in business at all. That obviated, for instance, the common abuse in production work, of rehearsing a company for long weeks of rehearsal, only to decide finally to abandon the production.

Even so, there were enough legitimate grievances to make stock actors with long experience grateful for the protection of their Association. As only one instance of what Equity had managed to do for these players, the basic week in stock companies had now been set at ten performances where formerly it might be, and often was, run up to twelve or fourteen.

The probationary period for stock actors had been abolished and if the season ran less than eight weeks, a two weeks' notice of closing of the company as well as its individual members was required. Before Equity it might be one week or it might be none.

All the other advantages won by the actor in productions in the way of time of payment, transportation of the actor and his baggage, and costumes devolved upon his brothers and sisters of the stock field.

And there was also the managers' knowledge that behind the

actor there stood a powerful and vigilant organization which would not permit with impunity the unfair treatment of its members.

ADVANTAGES WHICH HAVE ACCRUED TO THE TENTS

Tent shows are in many of their essentials traveling stock companies, and most of the benefits gained by stock companies have also been passed on to tent shows.

One of the great concessions gained for tent show members by Equity is the degree of violence which a storm must exercise to permit a manager to call off a performance without paying his actors. Frequently, before Equity entered the field, a rainstorm which might have cut down the attendance was utilized as an excuse to call off a performance, and the actors were not paid for the time lost.

Now storms that are not of sufficient violence to destroy some part of the tent are not to be considered as a reason to deduct from the actor's salary for any performance not given on that account.

No longer may a manager engage an actor, bring him on to some midwestern town, decide that he is not the man for the company and cast him adrift without salary or transportation. Now two weeks' notice is required, and transportation to and from the engagement base. In other words, there is no probationary period for the tent company, either.

Competition for the services of popular leading men and women used to induce a considerable amount of contract jumping in this field. Not only was the manager hit by this practice but the company was also injured and much time lost. Since Equity organized the tents, contract jumping has been almost eliminated, and where it occurs the offending member is suspended and may not play with other Equity members until he has paid to the manager he left the two weeks' salary for which the Association has bonded all members of more than six months' standing. The elimination of contract jumping has gone a long way toward stabilizing tent show productions.

Most important of all to the present generation of tent show members, Equity is helping them and their managers in their

fight against the organized encroachment of motion picture theatre exhibitors and distributors who have sought to bar tent shows from whole states, particularly in the south, through the passage of discriminatory tax laws and safety regulations.

Equity has helped to defeat inimical legislation which would have forced all tent shows to leave the state of Texas, as they had been forced out of certain other southern states. It has helped to win a similar fight in Mississippi; and has lost others in Alabama, Florida and elsewhere.

SOME OF THE MATERIAL FRUITS OF VICTORY

On the material side an Equity stock taking would have showed a growth in membership from one hundred and twelve on the date of its organization to a general average of ten thousand, about three-fourths of whom are always in good standing.

And where, in the first years, Equity had been content with a single room in an office building in which to transact its business, it had now a Headquarters Building, of which it was the sole owner, and branch offices in Chicago, Kansas City, San Francisco and Los Angeles.

The purchase of the Equity Headquarters Building had come about during the last days of the fight with the Producing Managers' Association. Since shortly after the strike of 1919, Equity had been the tenant in a building at 115 West 47th Street for which it had a lease for five years from January 1, 1920, at a yearly rental of $6,000.

In the last year of this lease Equity was notified that if it wanted a long time renewal of this lease it could be had—by paying $9,000 a year, a fifty per cent increase. Short of that its rental would have to be confined to short term leases of six months at a time.

This was most unacceptable to Equity for property values were increasing in the Times Square District and there was considerable building going on all about it. There was no telling, then, when it might find its home sold over its head, and be under the painful necessity of scurrying around to find new quarters at short notice. Still, paying $9,000 a year—

After some looking about the neighborhood—for it was agreed

that headquarters would have to remain in the theatrical district —the Council settled on a building just half a block east of the home it was then occupying.

This building, at 45 West 47th Street had once been the home of Chief City Magistrate William McAdoo. It was in excellent condition. There was not a crack visible anywhere, its floors were hardwood and its staircases handsome.

At the moment it was occupied by a night club (temporarily in eclipse), and its first two floors were not broken up into small rooms, so that there would be a minimum of remodeling necessary to turn it into an office building. Best of all the owner was willing to sell direct—and his price was $115,000.

So Equity consulted two of its friends in the Vincent Astor office, John Carrington Yates and a Mr. Coulter. They examined the place carefully and reported back that the land was worth $85,000 while the house could not be erected for less than $100,000. "You can't lose," the report read, "and it is to be doubted whether a more advantageous place for your purpose could be found."

Its own judgment backed by the expert opinion of these specialists, Equity lost no time in closing the deal. Title was taken June 26, 1924, and on Washington's Birthday of the next year Equity moved into its present Headquarters.

AN IDEALIST'S DECISION

So here, at the beginning of the year 1925, was Equity full of material goods; wealthy, or on the way to be; powerful, with no organized managerial opposition; and with a fairly well-disciplined and contented membership.

The question at this time was—what would Equity do with its power, its wealth, its influence in things theatrical? Hitherto there had been definite objectives which had served to keep its membership working. From 1913 to the end of the strike the goal had been the recognition of Equity as the representative of the actor; from the end of the strike to the present time it had been the attainment of Equity Shop. Always there had been something just a little beyond reach for which to strive. But now those objectives were reached and passed. Equity would

either have to seek for new horizons or, like so many other victorious organizations settle down to intrenching its position and exploiting its possibilities.

There were and are in Equity two quite different schools of thought. There is that group which believes that the routine of administering protection to its members in their contractual relations with producing managers would furnish the Association with plenty to do. Most unions content themselves with this interpretation of their duty, with occasional forays to secure wage increases, or shorter hours, or conditions which mean either more employment for its members, or more money for their employment. This is the practical man's way—the realist's—and most successful union labor leaders are realists.

In Equity there is another group which feels that the best service an association can give its members is to better the conditions of the field as a whole. They propose to do this by working with the managers and with any or all of the other groups in the field willing and able to help solve problems which are common to them all. They would rather work through and with the managers, but if the latter either cannot or will not coöperate they would not hesitate to draft those employers who might seem necessary to the success of their plans. Such an attitude is rare in labor circles and practically a foreign language to everyone connected with the theatre. Not only does it entail an immense amount of work beyond the requirements of the first plan, but it is practically sure to get its proponents into trouble eventually because it deals with situations and solutions which are beyond common knowledge, and for which there are no rules of procedure. This is the idealist's conception of the responsibility of power. It is the philosophy of the group which has influenced the course of the Actors' Equity Association from 1924 on.

But henceforth the central unifying theme which was so easily traceable in all the actions of the Association from 1913 to 1924 becomes replaced by two supplementary themes: the welfare of the actor, and the welfare of the theatre; sometimes separate, sometimes combined. They are apparent in all the policies to which Equity has successively turned from 1924 to the present time (1929).

THE STRUGGLE AGAINST CENSORSHIP

Continually recurring and eternally vexing, the problem of the control of questionable, or at least questioned plays is one which Equity thought it had solved satisfactorily as far back as 1922. In September the idea of a series of Citizens' Play Juries which had been worked out by conferences between Equity, the Producing Managers' Association, the Dramatists' Guild of the Authors' League of America and some thirty-five welfare and religious organizations in the spring of that year, was formally accepted by the City of New York, through Mayor Hylan and his Commissioner of Licenses, William Gilchrist.

But the Mayor and his Commissioners never evinced any particular regard for the plan, a mistrust which was shared by the District Attorney, Joab H. Banton.

Accordingly they did not resort to it when the first case which might have tested its efficacy arose. That concerned "The God of Vengeance," a translation from the Hebrew, which related the struggle of the keeper of a brothel to protect his daughter from the forces he had loosed. It was first presented in one of the smaller theatres in Greenwich Village during the following winter, and attracted comparatively little attention.

But "The God of Vengeance" took root and flourished to such an extent that the production came out into the bright lights of Broadway, where its greater accessibility and the methods by which it was exploited soon developed a number of complaints. Instead, however, of using this as a laboratory experiment for the Play Juries, the District Attorney turned to the courts and obtained indictments against Harry Weinberger, the producer, Rudolph Schildkraut, the star, and the remaining twelve members of the cast under section 1140-A of the Penal Code.[1]

They all came to trial before Judge John F. McIntyre and a jury in the Court of General Sessions, on May 14. Nine days later, after considerable publicity as to the nature of the play (publicity which added materially to its business), the whole lot were convicted, and on May 28, the star and producer were each fined $200, a mere trifle in view of the increased prosperity of the production, while the remaining members of the cast were let

off with suspended sentences. An immediate appeal was announced by Weinberger during the pending of which the play, presumably, was to continue business at the same old stand.[2]

The whole proceeding was an example of the very sort of thing which Equity had hoped to obviate through the operations of the Citizens' Play Juries. Apparently the District Attorney was not any too well pleased with it either, for during the next season or two he did not invoke it when complaints reached his ears. Instead he adopted the expedient of seeing the plays himself, or of deputizing one of his assistants to view them and then informally suggesting what changes seemed advisable to the producers with the implied if not expressed alternative of prosecution if they were not accepted.

THE FIRST PLAY JURIES

In the fall of 1924 David Belasco made two productions, "The Harem" and "Ladies of the Evening" which evoked a practically unanimous verdict from the critics as to their moral tone —or, rather, lack of it.

But the distinction thus conferred did not rest long on Belasco's shoulders. Within a month William A. Brady presented "A Good Bad Woman" to Broadway which, in its fidelity to the language and the manners of the demi-monde, eclipsed both the Belasco plays.

It seemed to be a question then as to whether wholesale prosecutions or a state censorship bill would be the outcome of these productions. But the Committee Opposed to Political Censorship, the ponderous name of the various associated groups, intervened and persuaded the District Attorney to permit a trial of the authorized but neglected Citizens' Play Juries.

The drawings for the first four juries were made March 3, 1925, by Richard E. Enright, Police Commissioner, in the presence of John Emerson and the Reverend Charles K. Gilbert of the Episcopal Social Service Commission.[3]

The actual inspection of the plays questioned occurred during the next ten days when the jury members visited the productions, singly and sub rosa. It was not until they reported back to the

Police Commissioner and the District Attorney on March 13 that it was even known what plays had been visited.

Although four juries had been drawn only three plays were reported on. Two, "Desire Under the Elms" and "They Knew What They Wanted" were exonerated. The third, "The Firebrand," received a suggestion as to a modification of one scene and certain of its business. The public apparently approved, for the clamor over censorship died down and bills which had been introduced at Albany were either withdrawn or smothered in committee.[4]

WHAT HAPPENED TO "THE BUNK"

The producers, at first a little afraid of the Play Juries, were greatly relieved. The next season saw a new set of plays in which sensational incidents of questionable moral worth challenged the playgoing public.

The District Attorney was not much reassured, but was willing to give the system another try. On June 7, 1926, it was learned that a new set of juries had visited "Sex," "The Shanghai Gesture," "The Great Temptations" and "The Bunk of 1926."

Neither of the first two productions called out the nine votes against, which were requisite for a conviction, though subsequently it was learned that "Sex" had had a close call. Consequently these two, about which most of the excitement of the season had centered, got off scot-free. "The Great Temptations" was ordered to eliminate one scene. Otherwise it, too, escaped.

By common consent "The Bunk of 1926" was the mildest of the quartet. The critics called it an average revue into which, some time after its opening, one sensational scene had been injected. In that scene a former member of Ziegfeld's Glorified Girlhood posed as "Eve" with a costume consisting of one fig leaf, three by five inches, and a transformation. Upon this comparatively inoffensive revue the whole force of the Play Jury fell for, by a vote of nine to two, it was declared: "As a whole objectionable from the point of view of public morals."

Mr. Banton pulled another lever in the machine and Equity was informed of the verdict. Since the establishment of the system Equity had had in all its contracts a clause which provided that:

"Should the Citizens' Play Jury provided for in New York decide adversely to the continuance of a production because salacious or against public morals, the actor shall forthwith terminate his employment without payment or penalty."

Well, the Play Jury had—and Equity did. The show was pulled that night. To the everlasting credit of the cast the order was loyally obeyed to the last girl.

So far the procedure laid down by the plan had been followed, but the next day one of the jurors tossed a monkey wrench which just about wrecked its machinery. Mrs. Muriel Moore, of Park Avenue, who had voted to convict "The Bunk," exercised the prerogative of her sex and changed her mind. She swore, in an affidavit, that she had not meant to vote to close the show, but had thought the producers would have an opportunity to revise it. If she had realized what it would mean, said Mrs. Moore, she would never have so voted. And Mrs. Moore's was the ninth vote which had brought conviction.

The producers hurried into court and obtained an injunction under which the cast went back to work without interference from Equity. But before long-drawn court proceedings could be gotten under way, the play died. Dressed up and cleansed "to the point of being rotten," according to the District Attorney, it succumbed of its own weight—or lack of it.[5] But the District Attorney's office had not gained any added respect for the plan or for the judgment of the juries.

THE WALES ACT FOLLOWS "THE CAPTIVE"

The situation created by the production of "The Captive" on Broadway the next fall brought the censorship situation to a head. This was a play by Edouard Bourdet dealing with sexual perversion among women. Critical opinion following its presentation by Gilbert Miller was that it was beautifully written, splendidly acted, with not a suggestive line or action—and the protagonist of the story never once appeared on the stage. But its theme was sufficient to condemn it absolutely with many.

The District Attorney was willing to give the Play Juries one more chance. Accordingly a blue ribbon jury viewed "The Captive" and reported back on November 15, 1926. It was prac-

tically evenly divided, six for conviction, five against and one blank ballot.[6]

Although this verdict was most unsatisfactory to those who felt that the play was a real menace to public morals, there was, at the moment, apparently nothing to be done about it, for the city authorities had agreed to accept the Play Jury and it had declined to convict the play.

On December 28, the Mayor called a meeting of sixteen prominent producers in his office and bluntly informed them that unless the stage took drastic and immediate action to clean itself the city would do the job for it.

The managers promised, as indeed they could not help doing, but beyond a few meetings and some talk nothing tangible was done.

At this exceedingly inopportune moment the same manager who had been responsible for "Sex," announced "The Drag," described as "a homo-sexual comedy drama by Jane Mast, author of 'Sex.'" It was generally known that Jane Mast was the pen name of Mae West who had written and was also starring in "Sex."

This announcement was quickly followed by word from Albany that new censorship bills were to be introduced in both branches of the State Legislature.

That galvanized the producers into life. They quickly agreed to act with Equity and the Dramatists' Guild to rectify the faults in the Play Jury system. A committee of three from each organization to which was given the title The Committee of Nine, got down to work immediately.[7]

If politics had not intervened to plague the theatre the Committee of Nine might have pulled the situation out of the fire even so. But the police had already decided to discard the hands-off attitude which had characterized their acceptance of the Play Juries, and the machinery of the Department could not be halted once it got under way. Despite a tentative acceptance by the District Attorney of the revamped Play Jury plan the police on February 9, 1927, descended upon three plays, two of which, "Sex," and "The Captive" had already been passed on by Play Juries, and arrested all members of their casts, haling them to Night Court where they were bailed out.

The producer of "The Captive" agreed to withdraw the production, and the case against him and his cast was dropped; but the other two went to trial and were both convicted, the authors and producers being fined and sentenced to ten days in the Workhouse.

Equity was still hopeful of saving the stage from a political censorship, and appeared to have won its fight when the Jenks Censorship Bill, though approved by the Education Committee despite Equity's fight against it, was committed to the Rules Committee from which Speaker McGinnies and other powerful members of the committee let it be known that they did not feel inclined even to let it be reported out on the floor of the Assembly. Equity had asked for one year in which to demonstrate the ability of the theatre to regulate itself. Now, it thought, that reprieve had been granted.

Then, from supposedly clear skies at Albany, came a devastating bolt. The District Attorneys of New York and Brooklyn were at the Capitol to confer with legislative leaders over certain recommendations of the Baumes Committee on the curbing of crime. But during those conversations the subject of censorship arose and on March 14 Majority Leader John Knight of the Senate let it be known that he would introduce bills drawn in conformity with suggestions from Messrs. Banton and Dodd.

The Bill was introduced three days later by Senator Roger Wales, for whom it was named. It was an attempt to apply the principle of padlocking convicted houses, an expedient derived from the prohibition experiment, plus severe penalties against all persons connected in any way with convicted productions. The padlocking might be for any period up to a year, following a play's conviction before a judge or jury.

The Senate passed the bill on March 23, largely by a vote of the up-State contingent. Only Senator Byrne of Albany and the New York City Senators voted in the negative.

The danger was not altogether apparent on account of the promise of the Speaker, but the passage of the Bill was accomplished with almost ridiculous ease. Toward the middle of the afternoon of March 25, the last day of the session, the Wales Act was handed down by the Rules Committee as a special report, after the first calendar had been entirely cleared. Majority

Leader Russell G. Dunmore had promised that it would not be let out and no one was particularly on guard.

Only Assemblyman Louis A. Cuvillier, of New York seemed to catch an inkling of its import as the clerk droned it out. As he concluded Cuvillier jumped to his feet.

"Is this the Theatre Padlock Bill?" he demanded.

"Just a minor amendment to the Penal Law," responded the Majority Leader, truthfully enough, since that was technically what the Bill was.

Upon that assurance the Bill went through with a whoop, not one voice being raised against it, and the Clerk, after a rapid roll call announced:

"Bill passed: Ayes, 130; Noes, 0."

Then the newspaper correspondents got together and discovered that this was the Wales Theatre Padlock Bill and that it was passed. There was a rapid caucus of leaders, none of whom seemed to have been responsible for its appearance and practically anonymous passage. Minority Leader Maurice Bloch called the attention of the Rules Committee to the fact that it had been passed "Without due consideration," as soon as that body had finished its meeting. Then Assemblyman Bloch moved and got a reconsideration of the Bill.

There was some slight debate when the matter was once more before the Assembly but that body was on the run as far as the Wales Act was concerned and, despite the opposition of Assemblyman Cuvillier, the result of the slow vote was not much different from the fast one. It went through a second time, 125 to 5.

In this action and in the subsequent signing of the Bill by Governor Alfred E. Smith, despite his previous opposition to censorship in any form, the influence of the Roman Catholic Church had great weight.

The Roman Catholic Church, too, had generally opposed censorship and the appearance of Monsignor Michael J. Lavelle before the Education Committee as personal representative of Cardinal Patrick J. Hayes, was a distinct departure for that Church. But even more than its dislike of censorship, great as that was, the Roman Catholic Church disliked the theme of "The Captive" and "The Drag." "The Captive" had already been

passed by a Play Jury and "The Drag" might be. So the Roman Catholic Church chose what seemed the lesser of these two evils and put all its weight behind the passage of the Wales Act. Its influence in legislative matters in New York State is very great, indeed.[8]

Since the passage of the Wales Act, one play has been closed by the threat to invoke the Padlock. Three plays have been raided and their casts arrested. Two have been freed on trial or examination and the third, again the product of Miss West, has yet to come to trial (August, 1929).

Equity has less liking than ever for the Wales Act and supported an attempt by Assemblyman Langdon W. Post, in 1929, to have actors exempt from arrest until after the conviction of the play. This amendment passed the Assembly but was killed in the Senate by a pocket veto by Senator Knight, the Majority Leader.[9]

Plans are already being laid to resume the battle at the next session of the Legislature, and at as many subsequent ones as may be necessary, for Equity's hatred of this particular law is wholesouled. It feels that by it the actor is made liable to fine and imprisonment for saying or doing things which are not criminal until a judge or jury says they are, and that the real responsibility for those things belongs to the authors who write them and the managers who order their doing. For the moment here, then, Equity is restive in defeat.

A NEW M.P.A. BASIC AGREEMENT AND CONTRACT

In the skirmishing which had preceded the passage of the Wales Act, Equity felt that it had received only lukewarm support from the producing managers, even though they were vitally interested in the outcome of that legislation. Nor had Equity forgotten that while the proposal for a remodeled system of Play Juries was before the authorities, and they were as yet undecided as to their course of action, Lee Shubert, interviewed upon his return from Palm Beach, had practically repudiated the scheme and had emphatically expressed his preference for a censorship by the Police and District Attorney. The incident was smoothed over, but it

could not have helped to convince the authorities that there was a united demand for the Play Juries from the entire theatre.[10]

But that was not the sum total of Equity's dissatisfaction with the Managers' Protective Association. From almost the beginning of its relations with Equity, the M.P.A. had failed to observe the provision that contracts were to be issued to the actor immediately upon his engagement, and persistent reminders from Equity had not served to mend this neglect. When contracts were issued they often contained provisions which required the actor to waive the eight performance basic week; or to agree to permit the manager, but not the actor, to exchange a minimum two weeks' contract for a run-of-the-play form, within a certain specified time after the opening of a production (by means of which the actor who had made a hit was deprived of the ability to bargain for a raise or accept better offers from other managers). Then the Managers' Protective Association had not been paying its promised share of the expenses of arbitrating its claims; or making payment on awards against its members within the stipulated ten days. And certain of its members were requiring actors to seek engagements through dramatic employment agents with whom, Equity's investigation disclosed, these managers shared fees. Finally there was the failure of the Managers' Protective Association to coöperate with Equity and other groups not only in the matter of censorship, but in other directions which concerned the general welfare of the theatre. For all these reasons Equity felt that it would be better off without the Basic Agreement, since its existence had allowed individual managers to harass Equity members uncurbed by their Association. Equity's opportunity to denounce the Basic Agreement came in September 1927, when it was officially informed of the election to membership in the M.P.A. of Vincent Youmans and the Civic Repertory Theatre.

Now it was specifically provided by Clause 27 of that very Basic Agreement that after May 31, 1924, elections to membership in the M.P.A. should only be with the written consent of the Actors' Equity Association. Because of the technicalities of the Agreement and the delays and evasions it afforded ill-disposed managers, Equity had always considered promiscuous membership in the M.P.A. a source of trouble and danger, and on previous oc-

casions had insisted on the literal observance of this clause. But on this occasion there had been no request for permission to elect—merely a notice of election. On September 22, 1927, Equity served notice on the M.P.A. that it considered the Basic Agreement at an end.

There was an immediate protest from the M.P.A. It claimed that Youmans and the Civic Repertory Theatre had never been elected—that the Assistant Secretary, Thomas C. Broadhurst, had erred in sending notice of their election to Equity. And it demanded an immediate arbitration of the Equity charges and claims.[11]

While Equity believed that it was in a position to prove that the M.P.A. had actually breached the Basic Agreement, and that it had both a moral and a legal right to abrogate it, there were other reasons which persuaded it to accept the M.P.A. suggestion that the whole Basic Agreement and the contracts under it be thoroughly overhauled and, as far as possible, the causes of Equity's complaints eliminated. There were several other reforms Equity had in mind and the M.P.A. could be of use in them, provided it was in an amenable frame of mind.

So committees from both Associations were appointed and for the next nine months they went over the Agreement and contracts with a fine-tooth comb.

The new Basic Agreement, really an amendment of the old one, was formally signed in the office of William A. Brady, on July 16, 1928, by Gillmore and Turner for Equity, and Dorothy Bryant and Gillmore for Chorus Equity; and by Hammerstein and L. Lawrence Weber for the M.P.A.

In return for Equity's waiving its right to cancel the Basic Agreement, the M.P.A. promised to offer only the printed form of the Standard Minimum Contract, unless Equity specifically consented to changes; to refrain from any attempt to evade the eight performance basic week; to pay its share of all arbitrations; to use a short form of contract to be given the actor at the time of his engagement; to take no part of any agency fees; to permit Equity to make its own regulations with regard to alien actors; to permit Equity to legislate for its own members regarding employment agencies; to give a special matinée for the benefit of the Actors' Fund of America during the twentieth week of each

play's run (and each twentieth week thereafter it might continue to run); to pay for the loss or damage to an actor's property used in a play, while under the control of the management; and other valuable concessions.

On the part of the Chorus Equity Association, the M.P.A. agreed to reduce the probationary period from ten days to seven; to pay expenses while rehearsing on the road and other things considered desirable by the chorus.[12]

Some of the promises made by the M.P.A. were to correct difficulties which existed between it and Equity: others were intended to permit Equity greater latitude in initiating policies not directly concerning the M.P.A. but in which, under the existing Basic Agreement, Equity would have been barred, or badly handicapped by objection on the part of the M.P.A. One of the most pressing of these was the problem of the alien actor.

EQUITY INITIATES AN IMMIGRATION POLICY

The theatre in this country was, in the beginning, an entirely foreign affair. Whole companies came from their home lands to entertain the colonies with the theatrical amusement to which they were accustomed.

Even after the development of the native theatre the expansion of the country provided work for a reasonable proportion of all actors; foreign actors were welcome and no impediment was placed in their way.

But the World War, which increased the cost of everything connected with the theatre, and the further competition of motion pictures, vaudeville, radio and other forms of entertainment, saw a gradual and increasing restriction of the number of theatres to which traveling attractions might go. Such was the rapidity of the decline of the road that a survey taken by *The Billboard* in 1925, at Equity's suggestion, developed the fact that in the fifteen years since 1910 the number of theatres reasonably available for the booking of legitimate attractions had dropped from 1,540 to 674,* and the decline was still continuing.

The actors who had composed the road companies, which could

* *Equity Magazine*, January, 1926, page 17.

not now be sent out because of this shrinkage, could not all be absorbed by the new forms of entertainment which replaced the legitimate theatre and began to drift back to the centers of employment where a surplus of actors soon developed.

In the competition for available parts alien actors, particularly British actors, appeared to enjoy an advantage over native American actors. Partly that was because some of the managers (and presumably many audiences), were partial to English enunciation and the English manner of wearing clothes; and perhaps, also, because the managers were partial to the British willingness to work for lower wages than the American actor thought fair, because of the cheaper living conditions abroad and the consequently lower wage scales to which actors were accustomed. Though, in fairness to the alien actor, it must be admitted that he soon became accustomed to the new standard of living in the United States, and that his salary level, after a season or two quite matched that of his American rival.

But there was considerable dissatisfaction with the situation in the ranks of the Actors' Equity Association, where there has always been a faction which resented the presence of any British actors any way. Conscious of this rising tide of resentment the Council, late in 1927, got an investigation under way to determine what the existing situation was. Then the sudden barring of Alden Gay, an Equity member, from employment in an experimental theatre in London, dragged the whole affair out into the limelight and made immediate action on Equity's part imperative.

The "Q" was not an important theatre, nor was Miss Gay, at that time, a well known actress. The importance of the incident sprang from the fact that in the course of the proceedings Sir Arthur Steel Maitland, Minister of Labor, officially confirmed Equity's belief that this was not an isolated instance, or the result of a neglect by Miss Gay to comply with the regulations covering the issuance of permits, but was an incident in the settled policy of the British government to exclude aliens from parts which might be filled acceptably by British actors.

That the British government had the right to legislate to protect its actors was conceded by Equity. But that it had that same

right it believed just as firmly. And Equity felt that it would have to do whatever was done, for control over immigration through Congress was both too uncertain and too slow.

The Council appointed a committee of five of its own members to canvass the new situation and called a general meeting on March 19, 1928, to which the Council committee was to report its recommendations. That Committee had to consider, of course, the fact that Equity could have nothing to say about who came into the country, or on what conditions they might come. Its control of the situation lay in its Equity Shop Policy, which meant that if its members decided to play in companies with alien actors only under certain conditions, the managers would have to meet those conditions, or employ only such alien actors as met them.

The Council committee did not wish to prohibit the coming of alien actors, for it realized that there were outstanding actors in this class whose presence in a cast would carry a play, and it wanted these actors to be available. There were also, the committee knew, many alien actors in Equity who had made such a place for themselves in this country that they were more at home here than abroad. Many of these alien actors had already made great contributions to the welfare of the Association. So the committee in evolving a plan, sought to protect the interests of those already a part of the American theatre and only to restrict the number of newcomers to the number which could be admitted without forcing the American actor to lower his standard of living past the margin of safety.

The committee began by exempting certain classes of alien actors from any regulations which might be devised. They were, briefly, all alien actors who might enter the country as members of a unit company which would arrive, play and depart as an organization. These actors would have to join Equity and maintain themselves in good standing, but there was no limit to their number or to the duration of their stay.

The committee also decided to exempt all alien actors who had entered under the quota, or such laws as were in force before the quota, and who had since remained practically continuous residents of the United States.

Third, the committee exempted all alien actors who could prove

that they had played at least one hundred weeks in the United States, some part of which must have been within five years immediately preceding their claim to the exempt status.

For the rest, any alien actor might still come to the United States, and appear with Equity members, provided he came in under contract for a particular play and at the expiration of the play for which he was engaged, he either returned to his native country or remained out of competition for a period of six months—unless, of course, he had managed to play himself into an exempt status in the meantime. The date on which the latter part of the policy was to go into effect was set at November 1, 1928, the beginning of a new dues period.

The Council approved the policy laid down by its committee and so, after a good deal of discussion, did the general meeting at the Hotel Astor, March 19. The vote was not unanimous, by any means, but the majority was substantial.* Henceforth, the policy of the Actors' Equity Association with regard to alien actors was determined: the details of the administration of that policy remained to be worked out.

The fifteenth Annual Meeting of the Association authorized changing the Constitution and By-Laws to accord with this policy; and another special meeting on September 21 approved those changes. They provided for the creation of two new classes of members to take care of alien actors. Where previously there had been only Senior, Junior and Lay members, each of the first two had been divided into two classes.

Senior Resident Members included all native American and Canadian citizens (the latter because Equity's jurisdiction includes Canada as well as the United States); all alien actors who had entered under the quota, or the laws in effect prior to its adoption, up to May 28, 1928 (the date of the Annual Meeting); and all alien actors who had become exempt by proving that they had played at least one hundred weeks in America, as previously defined, who had more than two years' experience on the stage. Junior Resident Members were native American and Canadian members with less than two years' experience. Senior Alien Members, were aliens with more than two years' experience who could not qualify as Resident Members; Junior Alien Members

* *Equity Magazine*, April, 1928, page 8.

were those unable to qualify as Resident Members and who had not two years' experience on the stage. Lay Members remained as before. Only Senior Resident Members were entitled to vote or hold office.

Although there had been many predictions of dire consequences as a result of this policy, there was comparatively little excitement and almost no friction when the policies went into effect on November 1, 1928.

That this was so was largely due to the fact that Equity gave such adequate notice and such precise explanations as to its intentions. The general trend of the policies was known from March, and further warnings and instructions were issued at each step in the passage of the necessary legislation.

The managers, by this time, knew Equity well enough to believe that it meant what it said with regard to this policy. They were told enough of its provisions to prevent their engaging any considerable number of ineligible alien actors.

So, instead of disrupted casts, plays dependent upon particular personalities failing dismally, and large casts of Equity members and aliens alike thrown out of employment, while managers, not knowing what to expect sat back and refused to make their customary productions, the only casualties reported up to the starting date of the policy were four or five. They were due to the ignorance of the alien actors that engagements in stock would be counted against their records, or because they thought they understood the provisions of the policy and acted in accordance with their belief instead of applying for an official interpretation.

In those instances where engagements were made it is probable that both actors and managers believed that the aliens were eligible. There did not seem to be any intention of defying Equity, or of trying to put anything over on it.

Instead, both alien actors and managers appeared to have accepted this bit of legislation as one of the conditions of production. In future the establishment of an alien's eligibility at the time of his engagement will be as much a matter of routine as any of the other manager's obligations under the Equity Shop Policy.

On the whole this highly delicate and controversial piece of legislation was put over with surprising lack of friction.

EQUITY MOVES AGAINST THE EMPLOYMENT AGENCIES

Not so much could be said of the other policy on which Equity embarked almost simultaneously. For some time the Council had been greatly concerned with the number and gravity of the complaints from actors regarding the abuses they encountered when they sought employment through agencies or personal representatives.

On the surface, the plan of the dramatic agency is simple and its proposition fair enough. No actor could hope to keep in touch with all the avenues of employment. Nor is the actor always a good hand at conducting business negotiations. The very qualities which make for artistry in his profession do not help him when it comes to driving a bargain with the exceedingly shrewd business man a successful producing manager has to be.

The dramatic employment agency, then, aims first to discover what openings there are for actors and what actors are available for them; then, to bring actor and manager together; and, if the actor is its client, to secure the best terms possible for him.

Early in the present century the White Rats, then a powerful organization, spent a great deal of money and waged a long campaign to secure the passage of a law through the New York State Legislature to regulate the commission an agency might charge for that service.

The sum finally arrived at as a maximum was half of a week's salary, payable at the rate of five per cent of the salary, during each of the first ten weeks of an engagement.

The agencies were not long in discovering that they could get around the provisions of the law by refusing to apply for the license required of employment agencies, and by calling themselves the "Personal Representative" or the "Manager" of the actor. Such relationships are not regulated by law and they were able to continue to operate with impunity—and without any check on their operations.

With a few notable exceptions, the agencies and personal representatives began to demand ten per cent, or more, of the actor's salary for the entire run of the production, no matter how casual their part in the securing of the engagement might have been.

To some extent, the agencies have claimed, they were forced to

make this demand, for certain producing managers were in the habit of requiring half what the agencies received from the actor for the privilege of casting their productions. Not all of the managers did this, but several Equity investigations over a period of years established the fact that some of the largest and most powerful were guilty of the practice, so there was a certain color to the claim of the agencies in this respect.

In such cases the manager was simply getting a rebate on the salary promised the actor, and the latter was actually paying the manager five per cent, or more, for the privilege of working for him. It was unfair, certainly, but even if the actor suspected it, what could he do about it?

Some of the actors eventually complained to Equity and complained bitterly. The Association appointed a special committee from the Council and conducted an investigation of the agency situation. All of the agencies were requested to appear before the Council, or its committee, and many of them did so and testified or not as they thought expedient. And from its own members, from managers and from trade papers Equity secured a great mass of information concerning current practices among the agencies.

It learned, for instance, that some of the agencies, not content with exacting a ten per cent commission for the life of the contract, were accustomed to receive bonuses at the time an actor registered, and again when the actor signed a contract through their efforts. It was not absolutely required, perhaps, but it was known that there were so many more persons on the agencies' books than there were places for them that only those actors would be placed in whom the agencies took particular interest. And that bonus was certainly one way to generate such an interest.

There was the case of one agent who turned producer and who, in one or other of his capacities, approached an actress—a member of Equity—for a part in the contemplated production. And when she signed her contract the agent half of the dual personality attempted to claim a commission for placing her with his producer self.

That investigation brought to light the fact that some agencies made a regular practice of covering out of town openings and of hunting up the producer on the morning after with the informa-

tion that if certain changes were made in the cast—changes which always involved replacements with clients of the agency—the show might still have a chance.

But at the time these facts and others came to light Equity's hands were more or less tied by the terms of its agreement with the Managers' Protective Association, and knowing that action here required a careful and unembarrassed campaign the Association declined to force the issue.

Its failure to move when the investigation had disclosed this state of affairs was not generally understood and on no issue was criticism of the administration more widespread or more bitter than this.

The situation was still more complicated because there were members, some of them prominent and influential, who had benefited by the existing situation, who found its conveniences outweighed its inconveniences and who saw little reason why Equity should mix in the affair and force a change. There were not so many of these actors, but what they had to say often carried considerable authority.*

Just about the time Equity got its negotiations with the Managers' Protective Association in good shape, and the alien actors' policy was on its way to be solved, the New York Agency Law was finally and completely knocked into a cocked hat.

The law had, it is true, been more honored in the breach than the observance, but it was the law, nevertheless, and Equity had been considering what it could do to enforce it. Now that was knocked galley west and its knocking was accomplished in this manner:

New Jersey had a law which was in many respects identical with that of New York. Rupert Ribnik, desiring to establish an employment agency, filed an application complying with the conditions of the statute. The New Jersey Commissioner of Licenses, Andrew F. McBride, believing the fees he had listed for certain positions were too high, refused to issue a license.

Ribnik, claiming that the law creating a scale of fees was unconstitutional, took to the courts to compel the issuance of a license. Through all the courts in the State of New Jersey the battle went uniformly in favor of Commissioner McBride; but Ribnik went right on up to the Supreme Court of the United

* *Equity Magazine*, July, 1928, page 8.

States and there victory was his and the agency law was sunk to the bottom of the legal seas.

For the majority of the Supreme Court, Justices Holmes, Brandeis and Stone dissenting, on May 28, 1928, held that an employment agent was a broker, a middle man, and that his right to charge what he saw fit for his services was no more to be regulated than the butcher, the apartment house owner and the broker who acted as intermediary between the owner and his tenants. The dissenting Justices pointed out that people seeking work were not as free to look about as tenants, and shoppers, and were often under exceptional economic compulsion to accept whatever terms were offered.* But the majority of the Supreme Court took the legalistic attitude with which courts meet so much social legislation—and there was no appeal from that decision.

It seemed hardly likely to Equity that the New York law was any more constitutional than that of New Jersey. It was, after all, the purpose of the law, the principle involved, which had been ruled out, not the phraseology of the law, itself.

Nor did it seem probable that the New York agencies would overlook the significance of the decision, or its applicability to their own business ventures. It had removed the last faint, lingering scruple from the agencies which had made a gesture of obedience and those few which actually had been obeying the law could now be undercut with impunity.

Since there was no possibility of a successful recourse to law Equity, as on other occasions, set out to see what it could accomplish for the protection of its members through Equity Shop.

The heart of Equity's plan was the requirement that each agent and personal representative, in order to do business with Equity members should obtain a permit from the Actors' Equity Association. The permit form contained a number of stringent regulations, among which was the setting of five per cent for not more than the first ten weeks of a play's run as the legal maximum for an employment agency.

For a while, during Equity's deliberations there was a tendency to do away with personal representatives altogether. But there were some in the Council who felt that a good personal representative was of real value to an actor—and that there were good and conscientious representatives.

* *Equity Magazine*, October, 1928, page 10.

But the Council was determined that anyone enjoying that status should be prepared to demonstrate his value. It was decided that only those willing to guarantee an actor a season of at least twenty weeks, at a salary not less than he had averaged for the past three years, might call themselves his personal representative—if the actor was willing to have him in that capacity—and collect ten per cent of his salary for the term of the engagement.

Existing contracts were not to be interfered with, but if an agent or personal representative wished to take out a permit from Equity he must be prepared to modify those contracts to conform to the Equity conditions.

The regulations as thus worked out were approved by the Equity Council meeting of August 7, and were submitted to the same Equity general meeting which passed upon the Alien Actors' Policy. Not one single voice was raised in opposition when Berton Churchill, Chairman of the meeting, put the question.

The next meeting of the Council set the date of October 9, 1928, as that on which the agency regulations should go into effect.*

THE AGENCIES FIGHT BACK

Many of the agencies and some of the personal representatives hurried into the Equity office and took out these permits. Others, mostly personal representatives, demurred not only at the commissions allowed by Equity but at certain clauses covering the change or revocation of permits which were undeniably harsh.

This group selected William Edelstein, a Dutch citizen and a resident of England, as the medium for taking the case into Federal Court, rather than the State Courts and secured the legal services of Nathan Burkan, often an opponent of Equity since 1919.

Federal Judge Henry W. Goddard granted a temporary injunction, October 11, 1928, and Equity promptly modified its rulings to exempt Edelstein and his office from the scope of the regulations.

Judge Goddard heard the arguments on both sides on October 19. They were confined entirely to the jurisdiction of the Court.

* *Equity Magazine,* October, 1928, page 31.

Neither side raised the question as to the necessity for the laws or their fairness as they stood.

Purely on those legal grounds Judge Goddard, on December 4, dismissed the injunction against the Actors' Equity Association, and against all of Equity's Officers, who had been named individually, as such.

But, and this is a point difficult for laymen to understand, although Frank Gillmore, Paul Dullzell and Grant Mitchell, as Officers of the Association, were free to proceed in the enforcement of Equity's agency policies, Judge Goddard held that Edelstein might try for injunctions against them as individuals.

Before he could hear those suits, however, Judge Goddard moved on to other legal pastures and his term in the Federal District Court for Southern New York was taken by the Honorable Frank J. Coleman.

It was Judge Coleman who, on December 28, heard for the first time what the lawyers term "the merits" of the case. Those are the intent of the things people do and the circumstances which, in their opinion, justify their actions.

While this matter was still pending Burkan reached down into his hat and pulled out something quite rare in the way of legal rabbits. It was a petition to the United States Circuit Court of Appeals, praying for a writ of mandamus against Judge Goddard.

Such a writ makes the Judge who rendered the decision a defendant in the case and its granting by the higher court is, in effect, a notice to the trial Judge, to take the suit again—and make the decision right, this time. It is, naturally enough, seldom granted unless the decision of the trial Judge is palpably unfair.

Judge Goddard's decision did not so appear to the Circuit Court of Appeals, consisting at this sitting of Presiding Justice Martin T. Manton and Associate Justices Learned Hand and Augustus N. Hand. They handed down a decision on February 4, 1929, upholding Judge Goddard. And the Supreme Court of the United States refused to review this ruling.

But in the meantime Judge Coleman had granted the injunctions against Gillmore, Mitchell and Dullzell, as individuals, and in a Court Order signed February 1, 1929, forbade them from having anything to do with the agency policies, in their private capacities.

At this stage in the game Equity, and some of its Officers, were

free to do anything with regard to the agencies that they might think proper, while other Officers were free officially, but enjoined personally. Yet the dividing line between what they might do as Officers and what they might not do as individuals was so shadowy and ill defined that there was a very decided question as to their freedom of action.

And the path blazed by Edelstein in the Federal Courts might very well be essayed by other agents and personal representatives in State Courts, with the status of Equity's Officers in equal doubt, there.

It was a dilemma in which the Equity Council found all the alternatives very nearly equally unpleasant. Its solution, reached February 5, 1929, was to suspend the operation of the regulations against all agents and personal representatives pending an appeal to the Federal Circuit Court of Appeals from Judge Coleman's injunction.*

Equity proved to be rather more scrupulous than was strictly necessary, in this action, for the decision of this court, handed down August 12, 1929, was a sweeping and unqualified acceptance of Equity's arguments as to the legality of its right to so legislate on behalf of its members and of the manner in which it had done so.

The decision, written by Judge Thomas W. Swan and concurred in by Judge A. N. Hand, with Judge Martin T. Manton dissenting without opinion, was of great interest to Labor circles, because of its willingness to accord social and human rights an equality with property rights—a theory not too widely held by American jurists to date.

SOME VENTURES IN COÖPERATION

Hardly as successful, though through no fault of Equity's, was its effort to persuade all the first class producing managers to combine in order to elect representatives to the American Theatre Board. This latter organization is still (August, 1929), a project. It has a Constitution and By-Laws which have been ratified by Equity and the producers, but which the dramatists are considering rather pessimistically. No meeting of the Board has ever been called, as such, nor have officers been elected. It is still, however, one of Equity's most cherished ideas, and the

* *Equity Magazine*, February, 1929, page 8.

probability is that when the pressure of other and for the moment more urgent affairs is removed, Equity will be found pushing this plan again.

The American Theatre Board is one of the legacies of the Committee of Nine, formed during the drive for censorship in 1927 which culminated in the enactment of the Wales Theatre Padlock Act.

The general welfare of the theatre, no less, is to be the field of the Board. In actual practice it will be restricted to such non-controversial subjects as its component parts allow it to handle. That would mean that the Board would not handle the request of the authors for new royalty bases; or of the producing managers for Sunday legitimate performances; or of the actors, for pay for rehearsals; or any of the disputes which are now settled by direct negotiation. It is not likely that the Board would be asked to represent the producing managers in negotiations with other theatrical unions over wage agreements or hours or conditions of labor.

But there are still a number of things which are, generally speaking, not the subject of controversy, and in which all the producing factors of the theatre are directly concerned. In that class are such efforts as censorship, the recovery of the road, the repeal of unfair or discriminatory legislation, laws which would prevent the appearance of children upon the stage under any conditions, and enough other incidental issues to keep any organization busy.

Ordinarily such matters are handled by employers' organizations. But, beside the great schism of the Shuberts and the Erlangers, there have been sub-feuds and individual animosities, rivalries, suspicions and bickerings which have prevented the producing managers from ever presenting a united front to anybody for more than a few minutes at a time.

It was the lack of an organization which could speak authoritatively for the producing managers, and which could make that word stick, that was responsible for the Wales Act, and for the continuance of the ten per cent war tax on theatre tickets for nearly ten years after the war. No one knew that better than Equity, which had compaigned so long and so hard and, for the most part, so futilely against them. Privately the managers admitted the need for organization, but did nothing about it and seemed unlikely to do anything about it, if left to themselves.

It seemed to Equity most unfortunate that good projects should be allowed to languish simply because the producers would not bury their differences and coöperate on what were, after all, matters to their own advantage. So the Association exerted pressure directly and indirectly to indicate the advantages of the managers' forming an association which should collaborate with the actors and dramatists in organizing the American Theatre Board, and intimated the disadvantages which might follow their refusal.

It is the first time on record that employes have brought pressure to bear upon their employers to form an organization to protect the employers' own interests.

At any rate the producing managers took the hint and forty-four of them attended a meeting in the College Room of the Hotel Astor on April 6, 1928. Out of that meeting came the Organized Legitimate Theatrical Managers' Association which was to speak for the producing managers as Equity speaks for the actors and the Dramatists' Guild for the playwrights.

But in helping thus to form the O.L.T.M.A. Equity had no intention of assisting to bring into the world another Producing Managers' Association to plague it with continual opposition, and Equity insisted on the presence in its Constitution of a clause limiting the activities of the new managers' association to non-controversial matters. The plank went in.

Before the Association was three months older another meeting reversed this policy and authorized the Organized Legitimate Theatrical Managers' Association to handle those subjects which had been expressly barred by Equity's request. There does not seem to have been in this action any desire to challenge Equity, and the O.L.T.M.A. has never made a move antagonistic to Equity, but this example of non-coöperation, coming almost immediately after its organization, and the intervention of the alien actors' and the agency policies, caused Equity to relax its pressure for the American Theatre Board. But it is safe to say that one of these days will find it again on the list of Equity's agenda.

And while good feeling was still running high, William A. Brady, backed up by Gillmore and others went down to Washington and persuaded Congress to raise the exemption from the war tax on theatre tickets to $3.

Despite the managers' apparent unwillingness to make use of it there seems to be something in this matter of coöperation.

Chapter XXXIX

THE CAMPAIGN FOR THE MOTION PICTURES

The situation in motion pictures has been one of the most absorbing and baffling that Equity has encountered in all its history. For almost ten years Equity has campaigned for and before the actors of the screen, attempting to persuade them alike of the necessity for a strong organization and that *it* was that organization.

On at least two occasions the power of Equity was the only thing which stood between those players and drastic invasions of their privileges and salaries. And yet today (August, 1929), a number of the influential actors and actresses in that field neither recognize Equity's claims to represent motion picture actors nor support its demands for a standard contract such as exists in the legitimate field.

Up to 1924 Equity's preoccupation with the Producing Managers' Association had prevented it from anything more vital than persuasion, plus an occasional threatening gesture in the direction of a standard contract. For the most part, however, its request for that document slumbered peacefully in its dusty pigeon hole, and the producers, believing that Equity had either lost heart for its motion picture venture or was too busy to pay attention to complaints from that source, had begun to allow certain abuses, hitherto prevalent only in scattered instances, to become universal in character.

Equity knew pretty well what was going on but waited until its quarrel with the Producing Managers' Association was in its final stages before it even intimated that it might do anything about it at all. Its move was made upon the receipt of a letter from one of its members, a legitimate actor who had gone into motion pictures and had remained there, which brought definite charges against motion picture producers and gave Equity something into which it could set its teeth. The identity of the letter's

writer, unfortunately, cannot be revealed, for he is still active in motion pictures and dependent upon them for a living. He wrote, in part:

"It is reasonably certain that a 'salary list' is being kept on file at the Producers' Association with a view to preventing actors from raising their salaries between pictures when free lancing. . . .

"Layoffs without salary are frequent, as when, in a certain picture, a change in continuity was made in the midst of the filming. The players received no salary for ten days. No other work could be accepted during that time. The picture was a character one and many of the men had grown whiskers and long hair—wigs are taboo —and on threatening to get work they were informed that if they got their hair cut no other studio would employ them during the lay-off, out of courtesy to the first named producer.

"One big concern keeps a list of 'percentage values' of every well known player, figured on their supposed drawing power. . . .

"I understand that at least one company has requested the actors to *share* with them their railroad fares, sleepers and hotel bills when going away on location. That may become quite 'popular' as time goes on if the actors stand for it. Every onerous condition that I have noticed being started by a producer during the last five or six years has always been gradually adopted by others. Some folks thought I was a most unreasonable pessimist back in 1916, when I prophesied that actors would be forced to work by the *day*.

"Now, here is the latest ramification of that sort of thing. For want of a better name I will call it 'rotation shooting' of picture actors. . . .

"Here's the way it works:—The various 'sets' in the picture being produced are erected in such order as to permit the studio to absolutely 'clean up' *all* scenes with a given actor or actress who receives, say, $2,900 weekly. This player is 'railroaded' right through those sets which are ready and waiting—and as night is turned into day and the player simply rushed from one set to another from eight-thirty or nine A.M. until eight, nine or ten P.M. or as much later as the player will 'stand for,' it is easily seen that lots of money is saved for the producer.

"Now then,—here is where the rotation enters into it. Just as they are concluding the scenes with the $2,900 player, then and then only do they *start* the *next* highest salaried player. If these two have scenes together these scenes are the *last* played by the *first* player and

the *first* played by the second player. Then the second player is 'railroaded' along down the line just as the first one was. Then they take up the next salary, etc.

"Now sometimes the scenario is so constructed that it is impossible to *overlap* the players' services in just this manner right through the picture and naturally *someone* must be scheduled to lay off a few days, as has always been a custom in pictures, as you know. Well, the player, instead of being told to 'rest' (and draw salary as heretofore), is now told that he is 'finished with the picture'—that 'perhaps there will be a few added scenes or retakes a little later and if so the studio will notify him,' etc, etc.

"Then two days, three days, or even ten days later the player gleefully receives a 'call' from the studio to report the next day for 'added scenes.' . . . And the truth of the matter is that he has merely obliged them by laying off until they caught up to the point where they need him again in the story.

"This thing was attempted back in 1918 to my knowledge—and at that time it cost the studio a pretty penny, for the actor went east and they had to retake everything with another player. So they gave up that sort of 'gamble' upon an actor's generosity until recently. And now they locate players who are *not* going east—and during the enforced layoff they fix it with the other studios, through their Association, so that the actor *cannot* work for anyone else while they lay him off. . . .

"Here's another. An actor working in a studio where many pictures are under production who was engaged in a good part for *one* picture originally is approached and is told that some other director on the same lot is stuck for a 'good actor' to play such-and-such a part in his picture. The part isn't very long but it needs a *good man* (flattering the actor's vanity). Now as he isn't being used tomorrow by the director, he is supposed to be working for, would he mind slipping over to so-and-so's set tomorrow and play that part? It's a small part but it stands out and it will make an awful hit with the studio bosses if he would be kind enough to do it, etc., etc. And he does it, naturally. Thus they get a good man in two pictures for one salary. I believe that very often these studios will engage actors to play in *any picture* cast for during the time they are working at a given studio—and *yet* they will *not* be placed in *stock* where they could depend on a given income. For it seems that Equity simply *must* rectify these injustices speedily.

"I have heard that the producers are considering offering actors a form of contract which is to call for their services for 'seven days

and three nights as a week's work.' My informant seems fairly well posted.

"And these are only a few of the injustices." *

Equity printed this report and protested it far and wide. The newspapers seem to feel that Equity, the affair of the Producing Managers' Association well off its hands, was planning a motion picture campaign. And the motion picture producers were not desirous of a fight just then.

So Joseph M. Schenck, President of the Association of Motion Picture Producers, Inc., made public announcement of the fact that his Association felt that the actor was the working partner of the producer and that the producers wanted him to be happy and contented. If he felt unjustly used all he would have to do was to report that fact to Mr. Schenck or the organization and the matter would be attended to.† And the practices complained of were actually dropped for a while.

It was under such circumstances that the producers agreed to do away with the Service Bureau for Extras, against which the complaints were many and grievous, and to organize what became later the Central Casting Corporation, financed and controlled by the Producers' Association.

There was at least one occasion on which Equity's merely being on the spot and prepared for an argument forced the withdrawal of unjust working conditions.

But the army thought the war was off and went on home. The interest in Equity, which had been high, fell off and so did Equity's recruiting drive. When Gillmore and Turner went west in the next summer to negotiate a standard contract Hays and Schenck made no bones of balking at the proposal for an Equity Shop. Equity's negotiators felt that a contract without any means of enforcing it was of no value and would probably result in the penalization of those Equity members it was designed to protect and they withdrew from the negotiations.

Then, indeed, interest in Equity fell to a new low level. The recruiting drive slowed to a walk and then came to a virtual standstill. There were such persistent reports that Equity intended

* *Equity Magazine*, September, 1924, page 12.
† *Los Angeles Examiner*, September 10, 1924.

withdrawing from the field that the Association felt compelled to retort editorially:

"Equity wants it understood that it is not abandoning its Los Angeles office or that it is contemplating any such action. There is plenty of work in the legitimate field alone to warrant its maintenance, and the best type of motion picture players will always be interested in the Association and its ideals. For them and their successors Equity announces that it is in Los Angeles and the motion picture field to stay, and will be there strong and vigorous long after these short-sighted actors and actresses have become dusty shadows on rolls of celluloid in somebody's storage warehouse." *

The producers must have believed otherwise, however, for they began maturing plans calculated to give Equity a final blow. During the next winter negotiations between producers and groups of actors, screen writers, directors and technical men laid the basis for a glorified company union to which was given the pretentious title of The Motion Picture Academy of Arts and Sciences. It was, nominally, an organization in which all the producing factors in motion pictures might have an equal voice and to which they might bring their problems. Actually, by a close analysis of its Constitution, Equity was able to announce:

"The reins of government will remain permanently in the hands of what may be a comparatively small group of distinguished members of the Academy, a group which is self-perpetuating and may easily enough be controlled by a clique representing a small fraction of the membership at large." †

With this organization safely launched on a rising tide of enthusiasm the producers felt that they were in a position to try to break the spirit of the actors.

THE BATTLE OF THE PAY CHECK

On June 23, 1927, sixteen prominent producing corporations, through Fred W. Beetson, Secretary of the Association of Motion Picture Producers, and also Secretary of the Hays' organization announced:

* *Equity Magazine*, June, 1926, page 6.
† *Ibid.*, September, 1927, page 8.

"It was unanimously decided that executives, departmental heads and producers would accept a salary reduction of from ten to twenty-five per cent.

"The compensation of all non-contract employes and artists receiving over $50 a week will be reduced a minimum of ten per cent.

"All contract employes, including stars, directors, writers and other artists are being asked to accept a corresponding reduction.

"Those receiving large salaries will be asked to take a proportionately larger percentage of reduction.

"The principle of salaries adjusted strictly on the basis of actual service rendered, will be followed in the renewal of all existing contracts." *

Hollywood was on fire! And to Equity they turned for leadership in the fight in prospect. Actors, directors, writers and technicians all had their own organizations, but of them all only Equity had been through a major engagement and was equipped to handle this emergency.

The producers sensed the fact that they had really started something this time and began to edge toward the fire escape. They knew where to find it and it did not fail them. Ten days after the promulgation of the order the officers and directors of the Academy of Motion Picture Arts and Sciences met and passed a resolution sympathizing with the producers in their desire for economy, but protesting at the general reduction in salaries without considering the merits of each individual case, and urging the devising of other forms of economy in its stead.

That was the out for which the producers had been looking. One by one each of the sixteen companies for whom Beetson had spoken let it be known that no cuts would be put in effect before August 1, and that perhaps in the meantime reforms might be evolved which would obviate its necessity—a plan which apparently had not occurred to the producers previously.

At several of the studios, notably Paramount, First National and Fox, it was understood that the cut had gone into effect with the first of the week, but when the payrolls were issued it was found that this change of heart had brought about a restoration of the full amounts to the envelopes.

* *Equity Magazine*, July, 1927, page 7.

But the swing was still toward Equity. The Los Angeles Executive Committee of the Association urged the immediate return of Gillmore and a series of conferences culminated in the meeting of eight hundred actors and actresses at the Screen Writers' Club on July 6, which enthusiastically and unanimously endorsed a demand for a Basic Agreement and a Standard Minimum contract for motion pictures, backed by Equity Shop.

Armed with this mandate Gillmore immediately wrote to Beetson notifying him of the resolution passed by the meeting and asking for an appointment to lay the matter before the producers.

Beetson's reply was to the effect that this letter would be laid before the next meeting of the Producers' Association, nearly five weeks off—although it was well known that the producers were getting together every two or three days for one reason or another.

And then the tide began to ebb. The Academy met on July 13 and indicated that it had no intention of working with or through Equity—natural enough behavior on the part of a company union. The producers, bad as their strategy had been up to this time, made full use of their remaining assets. The impression was allowed to filter through that while the Association of Motion Picture Producers would have nothing to do with Equity—there was *nothing* for which the Academy could ask that it would not receive.

In the next few weeks certain of the leaders of the film colony reached the conclusion that since the fight over the pay cut had been won there was nothing left worth fighting for. They were not prepared to stand behind a demand for Equity Shop, or a standard contract. And these people convinced a majority of the remaining leaders of the colony of the soundness of their stand.

To have forced through the Equity Shop campaign in the face of this feeling would have split the Los Angeles Branch of the Association wide open and Equity bowed itself out of an impossible situation. A second general meeting on July 19, reversed the action of the earlier meeting and voted to hold "in abeyance" the Equity Shop demand. But they knew, and the producers knew, that it had been thrown overboard.

One short month, and a few kind words, and all the righteous

indignation and the enthusiasm for Equity which had stirred the motion picture people so finely had evaporated.

If Equity's request for a conference on Equity Shop was laid before the producers' meeting no one ever heard of it. It may be, as Mr. Hays says, under consideration, or it may be, equally possibly, *beneath* consideration.

But Equity knows, and most of the film people know that the pay cuts which were "called off" that summer were, one by one and without publicity, applied once and sometimes twice to most of the players who had participated in that revolt.

And when, in December, 1927, the Academy issued its contract for free lance players which was to be their reward for having turned down Equity, it was found to be an instrument in which the interests of the producers were safeguarded at the expense of the actors—a typical company union contract.

Equity did not like this contract and said so out loud. Further, it printed in parallel columns the Academy's contract and the terms it had proposed to the producers two years before. The resultant discontent with the Academy contract caused its subsequent withdrawal and a little later another was put forward in which some of the worst features of the first had been modified to conform somewhat to Equity's conditions.*

Because the Academy contract had been ratified by the Los Angeles Executive Committee without referring the matter to the Equity Council, and despite Equity's well known attitude toward this and all other company unions, this particular committee was dissolved and an Advisory Board formed a few months later, without authority to legislate, and with the understanding that its program was to be in keeping with Equity's general principles.†

THE DRIVE FOR SOUND AND TALKING PICTURES

Despite these moves Equity was pretty definitely in eclipse as a factor in motion picture affairs (except that its presence in the background was a deterrent to unlimited aggression on the part of the producers), until the rise of sound and talking pictures.

Without waiting to discover whether or not their motion pic-

* *Equity Magazine*, April, 1929, page 7, *et seq.*
† *Ibid.*, May, 1928, page 20.

ture actors could talk and sing the producers turned immediately to the legitimate and musical comedy stages for trained voices. Practically all those who thus migrated from the stage to the screen in 1928 and the early months of 1929 were Equity members who took with them definite knowledge of the improvements in the actors' lot which Equity had effected there and were accustomed both to its Equity Shop policy and to working under Equity discipline.

Just how many of the twelve hundred or more who tried their hand at this form of work had remained in the business Equity did not know, but it believed there were enough of them to hold the balance of power in sound and talking pictures and place it in a position to tie up the industry if that became necessary.

In addition there began to accumulate at Equity Headquarters a really considerable file of complaints as to conditions in sound and talking pictures. Very largely these concerned unreasonable demands for overtime work, without compensation; but it also included what the actors felt to be unfair working conditions in poorly ventilated sound studios under blinding lights throwing off great heat, without consideration on the part of the directors for their actors. There seemed, in short, to be growing up a body of practices which discriminated against the actors, and Equity members, used to Equity protection in the theatre began to ask why they should not have it here.

But Equity wanted to be reasonably sure that its motion picture membership, particularly that part of it which lived on the Pacific Coast, was with it in this move. So during the winter of 1928-1929, Gillmore, who had succeeded to the Presidency when John Emerson resigned because of ill health in December, 1928,* started the campaign by taking a poll of the California membership.

Those members were asked in a questionnaire to say whether or not they desired an Equity contract, backed by an Equity Shop, in sound and talking pictures. No pressure was brought to bear upon them, they were given up to four months to make up their own minds, and when the votes were counted finally the figures in favor of the Policy were 1,120—those against it 98.

* *Equity Magazine,* December, 1928, page 9.

But because the Officers and Council wanted to know what was behind that vote, Gillmore made a last moment reconnaissance in April, 1929. He talked to Equity members in clubs, in their homes, in hotels and on the street and found them enthusiastic to a man over the prospect of Equity's entrance into sound and talking pictures, and very well pleased with the terms of the proposed contract.

Under those circumstances the Council considered the vote on the questionnaire tantamount to a mandate for a drive to organize sound and talking pictures. It felt, in fact, that a failure to so move when affairs were at such a pass would practically necessitate the abandonment of its jurisdiction in motion pictures.

The move was made June 4, 1929. On that date Gillmore, in Los Angeles, and Equity Headquarters in New York simultaneously announced the Equity program to its members, the producers, motion picture employment agents and the press. They were informed that from the date of the receipt of this information, which was June 5, Equity members would engage for future contracts only on the forms approved by the Association and in companies all members of which were Equity members in good standing. Equity members who were then engaged in working on bona fide contracts which had not expired on that date were instructed that they must continue to play them out, whether or not that involved playing with non-members; but they were told that they must bring those contracts to the nearest Equity office for the registration of the date of expiration, and that future engagements must be on the Equity conditions. Equity anticipated that about two hundred of its members might be in that class.

Aside from the Equity Shop Clause the contract which Equity then put forward followed the best current studio practices, with certain added safeguards. Briefly, these provided for a basic week of forty-eight hours (though nothing was said as to how they were to be used), with payment for overtime; clearer definitions for such things as "starting dates" about which disputes had arisen in the past; and compulsory arbitration of all questions arising out of the contract.

As a further gesture Equity informed the producers that while it believed the contract fair it was willing to agree to arbitrate any provision to which they might object as a body, either before the

American Arbitration Association, or any independent umpire or board of umpires. The only string Equity attached to that offer was that if it agreed to accept such an award, the producers must agree to do likewise.*

But the producers were not ready either to accept the contract or the suggestion to arbitrate. A four-hour meeting of the Association of Motion Picture Producers, Inc., in Los Angeles, was followed by the cryptic announcement from its President, Cecil B. De Mille, that:

"We will continue to engage artists for our productions only under the fair and just form of contract which was approved by representatives of both producers and motion picture actors. We decline to be restricted as to the sources of our talent." †

That was all the Association of Motion Picture Producers, Inc., would say at the time, and Will Hays and the Motion Picture Producers and Distributors of America never would admit that they were concerned in the situation in any way, though Equity knew that they were actively assisting the producers. But unofficially the producers had their coats off and were working hard and effectively to head off Equity's move. In their campaign the producers had certain factors in their favor, some of which Equity had foreseen and discounted, and others of which it was to learn with pained surprise.

There was, of course, the whole open shop sentiment, backed by employers' associations, which was out to hold Southern California against the encroachments of unionism in any guise. Its spokesmen had the almost complete backing of the press.

Where Equity had expected to find not much more than two hundred players under contract there proved to be enough important ones to assure the producers, with what help they might expect from non-Equity members of a continuity of output, though considerably restricted. And the producers used this reservoir with great judgment and effectiveness.

And, though Equity had expected to wage its battle by itself and win without outside assistance it had hoped all along that it would receive direct help from its allied unions in the American Federation of Labor whenever it might call upon them, but in

* *Equity Magazine*, June, 1929, page 8.
† *Ibid.*, July, 1929, page 7.

this Equity was disappointed, as Labor, for its own reasons, did not participate generally.

Finally, and what was much more serious, Equity found a considerable amount of defeatism and some downright treachery in its own ranks. Players who had pledged themselves unequivocally to stand with Equity while plans were under way suddenly found themselves unable to recall any abuses in all motion pictures which would require the presence of Equity in that field. Some of these dissenters were content with passive non-participation. Others came out openly against Equity, or allowed it to seem that they had done so, and used all the considerable influence that was theirs to hamper Equity in its campaign.

Any one of these conditions might have been overcome but, taken all together they formed a well-nigh insuperable barrier to success on the part of Equity alone. Nevertheless Equity fought a spirited battle for more than eleven weeks, was once on the verge of success, and when it retreated from the field, finally, it was able to do so in good order.

A RETREAT IN GOOD ORDER

The campaign itself was waged both in New York and Los Angeles though the color and action in the latter city overshadowed the eastern moves and deprived them of the significance to which they were entitled. Despite the apparent quiet, however, a great deal was accomplished in New York. Here there were five studios of the major producing companies completely equipped for production and the producers were very willing to start such a backfire in Equity's front yard. Yet in the eleven weeks of the strike only one full length picture was placed in production and that was cast, not in New York, but in Los Angeles and England. To balance that success Equity broke up "On the Stairs," a Pathé production, through the walkout of Pedro de Cordoba, Cyril Keightley and Betty Lawford, on Equity orders. More than two thousand Equity members turned down producers' form of contracts, aggregating more than a half million dollars, and did this without public meetings to stir their enthusiasm and to give them an example—a remarkable demonstration of loyalty and discipline.

On the west coast everything was color and bustle and animation. From the beginning meetings were held frequently, at first twice a week and later once a week. These meetings were addressed by forceful and interesting personalities and quickly outgrew the Screen Writers' Club, the Hollywood Women's Club and toward the end were held in the Hollywood Stadium of the American Legion. Attendance averaged nearly four thousand and the enthusiasm they generated was enormous.

Everywhere committees blossomed. Equity had twenty-eight committees under way covering almost every conceivable phase of activity, and working from five different headquarters.

A carnival was put on at the Edgewater Gables, at Santa Monica, on August third which grossed in the neighborhood of twenty thousand dollars and was a great advertisement to Equity's effort.

But the real work of bringing the producers to terms, or a conference regarding terms, was not accomplished by carnivals or general meetings colorful and stirring as they might be.

On June 14, Gillmore and Charles Miller, Los Angeles Equity Representative, attended the first meeting of the Central Labor Council of Los Angeles at which Equity was officially represented as a member. The meeting endorsed Equity's policies and instructed its Officers to coöperate with Equity in establishing Equity Shop conditions in local studios. From this meeting went a telegram to President William Green of the American Federation of Labor, who wasted no time in putting his seal of approval upon Equity and its effort to organize sound and talking pictures.*

Six days later Dullzell made a similar appearance before the Central Trades and Labor Council of Greater New York and Vicinity, the largest body of its kind in existence, which represents eight hundred and fifty-four thousand members, and it departed from the customary practice in such matters by pledging not only its moral but financial support. The latter offer is one seldom made to any labor body.

And individual unions offered what help they could. The musicians of Los Angeles, for instance, gave one thousand dollars; the Sailors' Union of the Pacific, together with the Marine

* *Equity Magazine,* July, 1929, page 8.

Cooks and Stewards' Association, and the Marine Firemen, Oilers and Water Tenders' Union, refused to take a ship out for Columbia Pictures without Equity's consent. More they could not do because of their agreements with the producers, and because of Equity's unwillingness to ask them to break those agreements with the consequent loss of employment and wages which would mount so quickly.

But the heads of the international unions affiliated with Equity continued to make individual efforts to bring the representatives of the actors and the producers together. And these efforts, coupled with similar pressure exerted by city and state officials, representatives of the United States Department of Labor, and neutral actors who were also producers, resulted in a meeting between Gillmore, Turner and Ethel Barrymore for Equity, and Joseph M. Schenck, Winfield Sheehan, Jack Warner, Irving Thalberg, B. P. Schulberg and M. C. Levee for the Association of Motion Picture Producers, on August 2.

For the first time in ten years the producers were acknowledging the right of Equity to represent their actors.

Equity, of course, was standing out for a one hundred per cent Equity Shop though still willing to arbitrate the contract. The best the producers would do was to allow that once an actor was an Equity member he should always be so considered and be eligible for engagement only when in good standing in his Association. They were willing to permit Equity to recruit freely and to build up the best organization it could but would guarantee the right of objectors to remain outside the Association as long as they chose.

This proposition Equity was unwilling to accept on the moment, but after a conference with the Los Angeles Executive Committee of the Association the conferees reported that Equity would be willing to come down to the eighty-twenty proposition which had been given the Managers' Protective Association in New York in 1924. The percentage was not to be applicable to entire casts, but within certain salary limits each class was to be at least eighty per cent Equity.

Not only were the producers unwilling to consider such an arrangement but in the interim they had thought better of their own proposition and now declared they wished to withdraw it. So

after four conferences, extending over six days, the negotiations had broken down.

Wishing the endorsement of the membership of the stand taken by the conferees and the Executive Committee Gillmore, on August 10, laid the result of the negotiations before a general meeting, and was instructed by the latter to stand out for at least the eighty-twenty basis.

But hard following upon that meeting came a most unexpected blow. Miss Barrymore, before moving herself and her production to San Francisco, delivered herself of a statement which was an attack upon Gillmore for having failed to accept the producers' offer and for having induced the Equity meeting "to accept a solution which was not a solution as it had already been refused by the producing managers." *

This statement, coming on top of the collapse of the negotiations, was unquestionably a blow to Equity's morale. It did induce many to feel that the war had been lost and that they had better save what they could—themselves if nothing else. And in the next few days a number of members who had been holding off, did accept producers' contracts and go to work.†

At this point William Canavan, President of the International Alliance of Theatrical Stage Employes, suggested to Gillmore that if he could arrange his affairs to permit of his presence in New York for a series of conferences, he hoped to be able to find some solution for Equity's problem.

The suggestion was accepted by Gillmore who, on Saturday night, August 17, told the final meeting of Equity members in the American Legion Stadium, that the regulations governing the acceptance of contracts which had been in effect since June 5 were temporarily discontinued, pending further orders, and that they might accept any form of contract during that suspension.

The following Wednesday Gillmore left Los Angeles for New York and the suggested conferences with Canavan and other international presidents of the studio crafts.

While it is quite probable that out of these conferences Equity will achieve something of what it set out to gain, there is no denying the fact that in this move to organize sound and talking pictures Equity has received a setback.

* *Variety*, August 14, 1929.
† *Billboard*, August 24, 1929.

It is not, however, a setback which will affect its position in the legitimate theatre and may prove to be no more than temporary in motion pictures.

UNSOLVED PROBLEMS

Motion pictures, American Theatre Board, these do not complete the list of unsolved problems which still engage Equity's attention.

Since 1925, going far beyond the province strictly its own, the Actors' Equity Association has become the champion and the spokesman of the legitimate theatre throughout the country. Its opinion and assistance are sought whenever the welfare of the actor or of the theatre is concerned.

There is a great deal such work to do for legislation adverse to the interests of the actor, as Equity knows them, is constantly cropping out in widely separated sections of the country. Sometimes the legislators are moved by hostility to the theatre and all it stands for in their eyes; sometimes they are moved by the kindliest motives, and wish to protect the actor. An example of such an attitude is the introduction of bills in Wisconsin and New Jersey which would have barred children absolutely from appearing on the stage under any conditions. Those responsible for the bill were interested only in protecting children, under the mistaken idea that their stage appearances were harmful, depriving them of family life and education. Then Equity explained how the children's interests were safeguarded and what a blow it would mean to the theatre not to be able to present plays dealing with family life in which children are necessary—and the bills were withdrawn or defeated.

The seven day week issue is not scotched yet, by any means, and proposals which would mean the opening of legitimate theatres on Sunday are constantly recurring in varying forms.

Motion picture exhibitors are unremitting in their attempts to legislate out of existence the competition of traveling dramatic attractions in communities where that competition is felt most keenly.

These things have all threatened Equity in the past in greater

or less degree, according to their nature, and probably will recur to threaten the Association in the future.

And there are, in the Association, and in all likelihood there will continue to be, groups of malcontents which are dissatisfied with some particular policy or phase of the administration and will strive to overturn it whenever the opportunity beckons.

But setbacks and malcontents and all, the Actors' Equity Association seems hard and fit for strenuous campaigning as it stands peering down the road which stretches before it. There is no sign yet apparent of the fatty degeneration which is the heritage of ease and leisure. If for no other reason than that they have forced it to keep in readiness for instant battle, Equity has had good friends in the enemies it has made.

From all the evidence before me as I come to the end of this phase of the history of the Actors' Equity Association I can only conclude that the star of Equity is still rising.

Appendix

CHAPTER I

1. From time to time in the five months which followed others were added to the Plan and Scope Committee. At one time or another, Richard Bennett, Arthur Byron, William Courtleigh, Robert Edeson, Howard Kyle, Wilton Lackaye, Bruce McRae, Dodson Mitchell, Frank Reicher, Cyril Scott, Paul N. Turner, Fritz Williams, Charles B. Wells, John Westley and Francis Wilson were added.

CHAPTER II

1. At this distance the original membership of the Actors' Equity Association as registered by those who attended the organization meeting and who signed the Members' Agreement and Constitution and By-Laws of the Association has historical value and an element of human interest, also. For the full roll call: Charles Abbe, Charles Abbott, William Abingdon, Joseph Allenton, Frank Andrews, Charles Angelo, Joseph Allen, E. Y. Backus, George Barnum, Digby Bell, James H. Bradbury, Edmund Breese, Claude Brooke, Frank Burbeck, Nicholas Burnham, Albert Brown, J. M. Clayton, Morgan Coman, E. J. Connelly, Scott Cooper, John Cope, William Courtleigh, Joseph Conyers, Jefferson De Angelis, Pedro de Cordoba, Frank Doane, Malcolm Duncan, Edouard Durand, Frederic De Belleville, Harry Davenport, Alphonz Ethier, Paul Everton, Alfred Fisher, Morris Foster, W. J. Ferguson, Edward McGlynn Gaffney, Echlin P. Gayer, Ernest Glendinning, Ferdinand E. Gottschalk, Robert T. Haines, Charles P. Hammond, Clarence Handyside, Charles Harbury, Macey Harlan, Harry Harwood, Louis Hendricks, Sidney Herbert, Lionel Hogarth, William Holden, Frank Hollins, Rapley Holmes, De Wolf Hopper, George W. Howard, Regan Hughston, Arthur S. Hull, Edwin Holt, Frank Hatch, George Irving, Frank Keenan, Howard Kyle, Ernest E. Lawford, William Lewers, Sheldon Lewis, Percy Lyndal, F. F. Mackay, Bruce McRae, James Manning, Mortimer Martini, Reginald Mason, Louis Massen, Edward R. Mawson, Dodson Mitchell, Grant Mitchell, Edwin Mordant, Guy Nichols, Edgar Norton, William A. Norton, Richard Nesmith, Frederick Perry, John Perugini, Percy Plunkett, Guy Bates Post, George Probert, Richard A. Purdy, Albert Perry, William Pruette, Jack Raffael, Vincent Serrano, Hassard Short, Milton Sills, Henry Stephenson, Charles A. Stevenson, Melville Stewart, John Stokes, Norman Thorp, Thomas F. Tracey, Paul N. Turner, Harold Vizard, Harold Vosburgh, Gustave Von Seyffertitz, S. K. Walker, Frederick Warde, Charles H. White, Hubert Wilke, John Willard, Francis Wilson, Jay Wilson, Thomas A. Wise, Henry Woodruff and Jay C. Yorke.

They did not represent all those who had had a hand in the work of organization, however. Some of those who had done much of the preliminary work were now on tour and so did not appear on that list.

Among these were: Frank Gillmore, Grant Stewart, George Arliss, Fritz Williams, Wilton Lackaye and others who should be recognized for the part they played in the difficult days of organization.

2. Equity Council Minutes, July 14, 1913.
3. *Ibid.,* November 24, 1913.
4. *New York Morning Telegraph,* June 20, 1915.
5. *New York Sun,* June 28, 1915.
6. *Ibid.,* June 9, 1915.
7. Equity Council Minutes, March 16, 1914.
8. *Ibid.,* April 6, 1914.

CHAPTER III

1. *Equity Magazine,* March, 1916, page 1.
2. Minutes of the General Meeting, March 10, 1916.
3. *Ibid.*
4. Equity Council Minutes, March 13, 1916.
5. *Equity Magazine,* June, 1916, page 7.
6. Equity Council Minutes, August 15, 1916.
7. *Equity Magazine,* December, 1916, page 2.
8. Equity Council Minutes, September 24, 1916.
9. *Equity Magazine,* December, 1916, page 3.
10. Equity Council Minutes, December 26, 1916.
11. *Ibid.,* March 19, 1917.

CHAPTER IV

1. Equity Council Minutes, August 14, 1917.
2. *Equity Magazine,* September, 1917, page 8.
3. Equity Council Minutes, September 18, 1917.
4. *New York Clipper,* December 19, 1917.
5. Equity Council Minutes, page 146.
6. *Ibid.,* January 22, 1918.
7. *Ibid.,* March 26, 1918.
8. *Equity Magazine,* June, 1918, page 4.
9. Equity Council Minutes, July 9, 1918.
10. *Ibid.,* September 3, 1918.
11. *Ibid.,* September 17, 1918.
12. *Ibid.,* October 22, 1918.

CHAPTER V

1. Equity Council Minutes, March 4, 1919.
2. *Ibid.,* May 13, 1919.
3. *Ibid.,* May 14, 1919.
4. Those who signed that declaration of war were: David Belasco, Lee and J. J. Shubert, A. L. Erlanger, Marc Klaw, Cohan and Harris, Henry Miller, A. H. Woods, F. Ray Comstock, William A. Brady, Selwyn and Company, George Broadhurst, Smith and Golden, John Cort, Henry W. Savage, Charles Frohman, Inc., Arthur Hammerstein, Morris Gest,

William Elliott, G. M. Anderson, L. Lawrence Weber, Charles D. Coburn, Oliver Morosco, Winthrop Ames, Arthur Hopkins, William Harris, Jr., Richard Walton Tully, Adolph Klauber, H. H. Frazee and J. Fred Zimmerman, Jr.

5. *New York Times,* May 24, 1919.
6. *Equity Magazine,* June, 1919, page 17.
7. *New York Clipper,* June 25, 1919.
8. Equity Council Minutes, July 8, 1919.

CHAPTER VI

1. The Equity representatives elected in accordance with the existing agreement were: President, Francis Wilson; Treasurer, Frank Gillmore; Members of the Board, Cope, Mordant, Churchill, McRae, Christie, Browne, De Angelis, Mills and Stewart.
2. Equity Council Minutes, July 28, 1919.
3. *New York Morning Telegraph,* August 1, 1919.
4. *Ibid.,* April 12, 1916.

CHAPTER VII

1. *New York American,* August 8, 1919.
2. Nor was Mr. Sherrill alone in his opinion. Similar protests appeared later from such representative film men as William Sievers of the First National Exhibitors, Finkelstein and Ruben, with a string of vaudeville and motion picture houses in and about Minneapolis, A. N. Blank, R. E. Pritchard, Seymour Hastings, Secretary of the Motion Picture Players' Union, and others. The film trade papers, such as the *Exhibitors' Trade Review, Motion Picture World, Motion Picture News,* and others, protested vigorously at the involving of the motion picture industry in a quarrel that was not of its making and did not concern it; and counciled all in the motion picture field to keep their hands off.
3. *New York Tribune,* August 9, 1919.

CHAPTER VIII

1. *New York Call,* August 10, 1919.
2. *Ibid.*
3. *New York Tribune,* August 10, 1919.
4. *New York American,* August 10, 1919.

CHAPTER IX

1. The names of those who were included in the suit were: Francis Wilson, individually and as president of the Actors' Equity Association; Bruce McRae, Grant Stewart, Richard A. Purdy, Harry Mountford, James Fitzpatrick, Frank Gillmore, John W. Cope, Frank Mills, Barney Bernard, Jefferson de Angelis, Arthur Byron, Thomas A. Wise, George Nash, Walter Jones, Herbert Corthell, Grant Mitchell.

Joseph Santley, Frederick Santley, Norman Trevor, Harry Browne, Frank Hatch, Lumsden Hare, Richard Carle, Wm. P. Carleton, Edwin Mordant, Pedro de Cordoba, Harry Conor, William Courtleigh, Douglas Fairbanks, William Courtenay, William S. Hart, Henry de Vries, Allan Dwan, Denman Maley, Laurette Taylor, Sir J. Forbes Robertson, Cyril Maude.

Wallace Eddinger, George R. Platt, Frank Reicher, Robert Edeson, Blanche Ring, Ian Robertson, William Farnum, Dustin Farnum, Elsie Ferguson, Max Figman, Trixie Friganza, Sam Bernard, Ralph Morgan, Ernest Truex, George Le Guere, John Charles Thomas, Louis Simon, Robert Grey, Morgan Coman, Robert Kelly, Harrison Hunter, Eddie Foy, Carl Hyson, Hassard Short, Harry Harwood, Cyril Scott, Oliver P. Heggie, Richard Gordon, John Stokes, Richard W. Tucker, Cyril Chadwick, William Boyd, Francis X. Bushman, Julia Sanderson, William Sampson, Charles Ruggles, Orrin Johnson, Henry Jewett, De Witt C. Jennings, Margaret Wycherly, Russ Whytal, Walker Whiteside.

Scott Welsh, Harry B. Warner, Charles Waldron, Brandon Tynan, Julian Eltinge, Edgar L. Ely, Herbert Yost, Leo Ditrichstein, William B. Mack, Louise Mackintosh, Montagu Love, John Emerson, Philip Merivale, Dodson Mitchell, Frank Monroe, Edwin Nicander, Chauncey Olcott, Robert T. Haines, Sam Hardy, Ben Hendricks, De Wolf Hopper, Cyril Keightley, William J. Kelly, Joseph Kilgour, Wilton Lackaye, Sheldon Lewis, Thomas J. McGrand, Frank McIntyre, George MacFarlane, Andrew Mack, George D. MacQuarrie, J. Hartley Manners, Robert Mantell, Edith W. Matthison, Fuller Mellish, Antonio Moreno, John Daly Murphy, Mary Nash, Florence Nash, Conrad Nagel, William Norton, Alla Nazimova, Fred Niblo, James L. Crane, Eugene O'Brien.

James O'Neill, Frederick Perry, Francis Byrne, Guy Bates Post, Tyrone Power, E. J. Radcliffe, Thomas W. Ross, George Probert, Ernest Lawford, Henry Kolker, Frank Keenan, Julius Tannen, Fred Stone, Emily Stevens, Hilda Spong, Otis Skinner, Eleanor Painter, Florence Reed, Charles McNaughton, Colin Campbell, Henry Warwick, Edwin Taylor.

Olive Reeves Smith, Sydney Jarvis, John E. Miltern, Richie Ling, Vincent Serrano, C. Aubrey Smith, Herbert Standing, Jr., Henry Stephenson, Charles A. Stevenson, Willis P. Sweatman, Jessie Glendinning, Ernest Glendinning, Billie B. Van, Henry B. Walthall, Dallas Welford, Charles B. Wells, Will West, John Westley, Malcolm Williams, Forrest Winant, Oswald York, Lionel Adams, Maclyn Arbuckle, Roy Atwell, King Baggott.

Byron Beasley, Richard Bennett, George Beban, James Bradbury, Donald Brian, Edmund Breese, Frederick Burton, Frank Kemble Cooper, Frazier Coulter, Frank Craven, Maurice Costello, Frederic De Belleville.

The above all individually and as members of the Actors' Equity Association. *

2. *New York Sun,* August 12, 1919.

3. *New York Morning Telegraph,* August 13, 1919.

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* *New York Sun,* August 12, 1919.

CHAPTER X

1. New York *Tribune,* August 13, 1919.
2. *Variety Daily Bulletin, No.* 4, August 13, 1919.
3. *New York Evening Mail,* August 13, 1919.
4. *Ibid.,* August 13, 1919.
5. *New York Journal of Commerce,* August 14, 1919.
6. *New York Morning Telegraph,* August 14, 1919.

CHAPTER XI

1. *New York Evening Post,* August 14, 1919
2. *New York Clipper,* August 20, 1919.
3. *Ibid.,* August 20, 1919.
4. *New York American,* August 15, 1919.
5. *Variety Daily Bulletin,* No. 6, August 15, 1919.
6. Those who had attended Mr. Sothern's call for a neutral and friendly attempt to find a solution of the problem were: Leo Ditrichstein, Minnie Maddern Fiske, Howard Kyle, Lowell Sherman, Augustus Thomas, David Warfield, Louis Mann, William Collier, Margaret Anglin, Amelia Bingham, Fay Bainter, Ina Claire, Janet Beecher, Frances Starr, Mary Ryan, Lenore Ulric, Marjorie Wood, Ruth Chester, Eileen Huban, Gladys Hanson, Minnie Dupree, Carlotta Monterey, Edna Crawford, Laura Walker, Marguerite St. John, Mr. and Mrs. Charles Coburn, Mr. and Mrs. Holbrook Blinn, Eugene Walter, Thomas E. Shea, Eugene Cowles, Donald Gallagher and Burr McIntosh.
7. *Variety Daily Bulletin,* No. 7, August 16, 1919.

CHAPTER XII

1. *New York Morning Telegraph,* August 17, 1919.
2. *Variety Daily Bulletin,* No. 8, August 18, 1919.
3. *New York Times,* August 17, 1919.
4. *New York Evening Mail,* August 16, 1919.
5. *New York Times,* August 18, 1919.

CHAPTER XIII

* The members of the all star mob which functioned at the Equity Benefits would have cost a fortune even at summer salaries. Among those who appeared in that capacity pretty regularly and are probably present in this picture were: Charles Dow Clark, John Cope, Harrison Hunter, Stanley Forde, Sam Ash, Alf. Helton, Percy Moore, Laura Burt, Frances Goodrich, Philip Tonge, Richie Ling, Albert Phillips, Blanche Ring, Pedro de Cordoba, Jack Hazzard, Malcolm Duncan, Charles Winninger, Mabel Taliaferro, Kathleen MacDonald, Ida Mulle, George Le Guere, Percy Waram, Robert Ames, Amelia Summerville, Sidney Blackmer, Elisabeth Risdon, Flora Zabelle, Mona Kingsley, Katherine Grey, Grant Stewart, Brandon Peters, Roberta Arnold, Hugh Cameron, Frank Morgan, Fania Marinoff, Henry Stephenson, Beverly West, Mary Servoss, Pauline Seymour, Jefferson de Angelis, Sue MacManamy, Wellington Cross, Horace Braham, Sam Hardy, Beth Merrill, Martha Mayo,

DeWitt C. Jennings, Vivia Ogden, John Stokes, Warner P. Richmond, Arthur J. Wood, Stewart E. Wilson, Lloyd Neal, May Collins, Margery Taylor, Edmund Elton, Max Waizman, Phil Bishop, Dorothy Allen, John Harrington, Miriam Sears, William Ingersoll, Jack Raffael, Rose Mary King, Victor Sutherland, Henry Duggan, Nina Morris, Henry Stanford, Stuart Sage, Katherine Stewart, J. Malcolm Dunn, Joseph Dailey, Beatrice Nicholls, Mitchell Harris, Susanne Willa, Henry Mortimer, Charlotte Granville, James Bradbury, Jr., Grant Mills, Edith Barker, Harry Kelly, Charles Angelo, Guy Harrington, Emmet Shackleford, Wyrley Birch, Charles Musset, Charles P. Hammond, Perce Benton, Florence Edney, E. J. Blunkall, Richard Gordon, Robert G. Pitkin, Saxon Kling, Mina Crolius Gleason, Clay Clement, Blanche Frederici, Olive Reeves Smith, Marguerite Forrest, Galwey Herbert, Florence Enright, Anthony Hughes, George E. Mack, Sarah Edwards, Genevieve Tobin, Vivian Tobin, Frank Bacon, Wilton Lackaye, Ralph Morgan, Marie Dressler, Helen MacKellar, Wilfred Lytell, Harry C. Browne, Felix Krembs, Tom Lewis, George Probert, Barry Macollum, Jane Oaker, Harry J. Lane, Thomas B. Findlay, Jennie Eustace, Beatrice Terry, Thomas E. Jackson, Josie Intropidi, Pearl Sindelar, Adelaide Prince, Frank Allworth, Sara Sothern, Frederick Santley, Bertha Mann, Jessie Graham, Cyril Raymond, Malcolm Fassett, Tom MacLarnie, Hal Crane, Cora Witherspoon, Roy Gordon, Gus Weinberg, Morris Lavigne, Maud Durand, Kathleen Comegys, Clifford Dempsey, Robert Strange, Paul Porter, Gerald Oliver Smith, Richard Barbee, Philips Tead, Frances Demarest, Charles Waldron, Eva Condon, Beatrice Moreland, Frederick Truesdell, Ruth Parry, Forrest Winant, Helen Carew, Harold de Becker, Winifred Harris, Bernard J. McOwen, Sussanne Westman, Robert O'Connor, Minna Gale Haynes, Charles McNaughton, Marion Lord, Frank Horton, James Bradbury, Sr., William B. Mack, Harry Chambers, Herbert Ashton, Richard Tucker, Reginald Mason, Averell Harris, Herbert Heywood, Beth Franklin, Betty Rass Clarke, Jay Velie, Janet Velie, Daisy Belmore, Helen Bolton, Frank Gillmore, Nedda Harrigan, Lucille La Verne, Howard Lindsay, Olive May, Reginald Barlow, Luis Alberni, Alphonz Ethier, Purnel Pratt, Esther Howard, Morgan Wallace, Diantha Pattison, George W. Howard, Claiborne Foster, Robert Elliott, Robert Taber, James Gleason, Lucille Webster Gleason, Hassard Short, Francis X. Conlan, Gladys Feldman, Hobart Cavanaugh, Edith Taliaferro, Ann Sutherland, Edward G. Robinson, George Christie, William H. Powell, J. M. Kerrigan, Hal Briggs, Mrs. Felix Morris, Felice Morris, Mildred Morris, John Emerson, Horace Sinclair, Robert Kelly, Edmund Breese, Raymond Hackett, George MacQuarrie, Denman Maley, Ray Raymond, Hal Skelly, Robert McWade, Frank Lee Short, Lee Baker, Leona Hogarth, Ralph Whitehead, Dorothy Tierney, Ada Lewis, Otto Kruger, Ruth Shepley, Louise Mackintosh, Richard Sterling, Robert Bentley, Percival Vivian, Beatrice Noyes, Ruth Vivian, Edward Poland, Edward De Camp, Leonard Doyle, Edward Arnold, Minnie Milne, Dorothy Mortimer, Grace Atwell Mordant, Phil Ryley, Lewis Hendricks, Jerome Daley, Eugene Revere, Lillian Tucker, Elsie Rizer, Tom Walsh, Mary Nordstrom, Stephen Wright, George Howell, Shirley de Mee, Charles Morrison, Claude Archer, Francis McGrath, Mary Shotwell, Viola Knott, Grace Goodall, Ida Darling, Gilbert Clayton and Paul Nicholls.

1. *New York Morning World,* August 19, 1919.
2. *New York Morning Telegraph,* August 20, 1919.
3. Among those present at the time were Eugene Walter, Avery Hopwood, Roi Cooper Megrue, Rupert Hughes, Max Marcin, P. G. Wodehouse, George Middleton, Samuel Shipman, James Montgomery, Otto Harbach, Eleanor Gates, Louis K. Anspacher, Cleves Kinkead, Edward Clark, Owen Davis, Anthony Paul Kelly, James Forbes, Rida Johnson Young, Martin Brown, Harold Atteridge, Thomas Gray, Leroy Smith, Edward Paulton, John J. McNally, Eugene Presbrey, Rennold Wolf, Gene Buck, Sidney Rosenfeld, Henry E. Dixey, Eleanor Clark, Glen McDonough, Guy Bolton, Paul M. Potter, May Tully and S. Jay Kaufman.—*New York Morning Telegraph,* August 20, 1919.
4. *Ibid.*
5. *New York Evening Sun,* August 21, 1919.
6. *Variety Daily Bulletin,* No. 11, August 21, 1919.
7. *New York Morning World,* August 21, 1919.
8. *Variety Daily Bulletin,* No. 11, August 21, 1919.

CHAPTER XIV

1. *Variety Daily Bulletin,* No. 12, August 22, 1919.
2. *New York Times,* August 22, 1919.
3. *New York Evening Globe,* August 21, 1919.
4. *Variety Daily Bulletin,* No. 13, August 23, 1919.
5. *New York Herald,* August 23, 1919.
6. *New York Morning World,* August 23, 1919.
7. *New York Morning Telegraph,* August 23, 1919.
8. *Ibid.*
9. *Ibid.*
10. The names of the more important actors and actresses who had joined were then read. They were:

Minnie Maddern Fiske, Frances Starr, William Collier, Otis Skinner, Janet Beecher, Lenore Ulric, Henry Miller, Burr McIntosh, Louis Mann, Olive Wyndham, Lowell Sherman, Lester Lonergan, Jose Ruben, Effingham Pinto, Loretta Healy, John Cromwell, Charles Nolan, Zelda Sears, Blanche Bates, Mary Nash, Holbrook Blinn, Fay Bainter, Ina Claire, Ben Jonson, George Barnum, Mary Ryan, Lola Fisher, Justine Johnstone, Josephine Drake, Joe Weber, Edward Raymond, David Warfield, Marie Cahill, Amelia Bingham, Florence Nash, Alan Dinehart, Eileen Huban, Carlotta Monterey, Howard Kyle, Marjorie Wood, Ralph Herz, Arleen Hackett, Lionel Braham, Ruth Chester, Thomas E. Shea, Donald Gallagher, Philip Dunning.*

It was also announced that the entire Winter Garden Company had signed.

Henry Miller and his leading woman, Blanche Bates, telegraphed from the Pacific Coast that they were with the movement heart and soul, and to count them as members, and Louis Mann assured the meeting that Otis Skinner and William Gillette would join.†

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* *New York Morning World,* August 23, 1919.
† *New York Review,* August 23, 1919.

An additional list of applicants for membership, which was given out at the end of the meeting contained the names of:

George Bond, Patricia Collinge, Gladys Hanson, Arthur Shaw, Charles Hopkins, Charles Coburn, John Halliday, Eva Lang, Elsa Rinehart, Henry Kauffman, Alma Selland, Jack Rogers, Phil Hardy, Talbot Vaughn, Edna Caldwell, Consuelo Bailey, Glad Downing, Irving Jackson, Robert Vaughn, Richard Calvert, Ralph Rockefeller, Chamberlain Brown, Ethel Purdy, Charles E. Andrews, Catherine Hurst, Louise Cook, May Elsie, Leslie Macklyn, Violet Pitt, George Williams, Leo Mielziner, Jr., Lewis Darclay, Leon Rudd, Henry M. Arden, Genevieve Temple, Edna Temple, May Taylor, Dorothy Kuhn, Lottie Ormsby, Jess Neville, Polly Hyatt, Ethel Wayne, Janet Salore, Nellie Murry, Marguerite St. John, May Scott, Jack Ryan, and H. M. Murry.*

11. *New York Morning Telegraph,* August 23, 1919.

CHAPTER XV

1. *New York Tribune,* August 24, 1919.
2. *New York Call,* August 24, 1919.
3. *New York Morning Telegraph,* August 24, 1919.
4. *New York Times,* August 25, 1919.
5. *New York Evening Sun,* August 23, 1919.
6. *New York Tribune,* August 24, 1919.
7. *New York Morning Telegraph,* August 24, 1919.
8. *Ibid.*
9. *Ibid.,* August 24, 1919.
10. *Ibid.,* August 25, 1919.
11. *New York Call,* August 25, 1919.
12. *New York Morning Sun,* August 26, 1919.
13. *New York Morning Telegraph,* August 26, 1919.
14. *Ibid.*

CHAPTER XVI

1. *New York Morning Telegraph,* August 27, 1919.
2. *Variety, Daily Bulletin No.* 16, August 27, 1919.
3. *New York Morning Sun,* August 27, 1919.
4. *Ibid.*
5. *Ibid.*
6. *New York Times,* August 28, 1919.
7. *Variety, Daily Bulletin No.* 17, August 28, 1919.
8. *Ibid.*
9. *New York Tribune,* August 28, 1919.
10. *Variety, Daily Bulletin No.* 17, August 28, 1919.
11. *Ibid.,* No. 18, August 29, 1919.
12. *New York Call,* August 29, 1919.
13. *Variety, Daily Bulletin No.* 17, August 28, 1919.

* *New York Review,* August 23, 1919.

CHAPTER XVII

1. *New York Tribune,* August 29, 1919.
2. Those who drafted the terms which brought peace to the Hippodrome were Gillmore, Marie Dressler, Shay, Weber, Frayne, Mountford, Fitzpatrick, Rubin; H. O. Winsor, Vice-President of the United States Realty and Improvement Company; R. H. Burnside, general stage director of the Hippodrome, and Shepherd of The Lambs; and Mark W. Luescher, house manager of the Hippodrome.*
3. *New York Evening World,* August 30, 1919.
4. *New York Evening Sun,* August 30, 1919.
5. *New York Illustrated News,* September 1, 1919.
6. *New York Tribune,* August 31, 1919.
7. *Ibid.*
8. *New York Morning World,* September 1, 1919.
9. *Variety, Daily Bulletin No.* 21, September 3, 1919.
10. *New York Times,* September 2, 1919.
11. *Variety, Daily Bulletin No.* 20, September 2, 1919.
12. *New York Times,* September 2, 1919.
13. *Variety, Daily Bulletin No.* 20, September 2, 1919.
14. *New York Morning Sun,* September 2, 1919.
15. *Variety, Daily Bulletin No.* 20, September 2, 1919.
16. *Ibid.*
17. *New York Tribune,* September 2, 1919.
18. *Ibid.*
19. *New York Morning World,* September 3, 1919.

CHAPTER XVIII

1. *New York Morning Sun,* September 5, 1919.
2. *Variety, Daily Bulletin No.* 24, September 6, 1919.
3. *New York Times,* September 6, 1919.
4. *Variety, Daily Bulletin No.* 24, September 6, 1919.
5. *New York Evening Globe,* September 6, 1919.

CHAPTER XIX

1. *Christian Science Monitor* (Boston), August 5, 1919.
2. Grant Mitchell's account of the strike in Chicago.
3. *New York Morning World,* August 13, 1919.
4. *New York American,* August 14, 1919.
5. *New York Times,* August 16, 1919.
6. *Ibid.*
7. Telegram, Nockels-Gillmore, August 16, 1919.
8. Telegram, Howards-Wilson, August 17, 1919.
9. *New York Morning Telegraph,* August 17, 1919.
10. *New York Clipper,* August 20, 1919.
11. Berton Churchill's account of the strike in Chicago.

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* *New York Times,* August 30, 1919.

12. *Christian Science Monitor,* August 18, 1919.
13. *New York Morning World,* August 20, 1919.
14. Berton Churchill's account of the strike in Chicago.
15. *New York Times,* August 22, 1919.
16. Berton Churchill's account of the strike in Chicago.
17. *Billboard,* August 30, 1919.
18. *Variety, Daily Bulletin No.* 19, August 25, 1919.
19. *New York Morning World,* August 28, 1919.
20. *Variety, Daily Bulletin No.* 23, September 5, 1919.
21. *New York Evening Telegram,* September 4, 1919.
22. *Variety,* September 10, 1919.

CHAPTER XX

1. *New York Times,* August 13, 1919.
2. *New York Morning Telegraph,* August 14, 1919.
3. *New York Times,* August 14, 1919.
4. *Boston Evening Transcript,* August 15, 1919.
5. Echlin Gayer's account of the strike in Boston.
6. *New York Morning Telegraph,* August 19, 1919.
7. *Boston Herald,* August 31, 1919.
8. *New York Evening Mail,* September 2, 1919.
9. *New York Sun,* September 3, 1919.
10. *Boston Advertiser,* September 5, 1919.

CHAPTER XXI

1. *Variety,* September 9, 1919.
2. *Ibid.*
3. Equity Council Minutes, October 14, 1919.
4. *Ibid.,* November 10, 1919.
5. The Equity members now elected to the Chorus Council were: Ethel Barrymore, Mrs. Agnes Arden, Mrs. Felix Morris, Florence Enright, Pearl Sindelar, Suzzanne Morgan, Guy Nichols, Percival Knight, George S. Trimble, John Charles Thomas, Frank Fay, Jack Cagwin, Roger Grey and Earle Boothe, while the seven Chorus Equity members were Kathleen Carroll, heroine of the Boston strike, Peggy Maloney, Edith Rook, Elsie French, Vera Bailey, Jean Rhodes, and William Morgan.*
6. *Equity Magazine,* December, 1919, page 14.
7. Equity Council Minutes, April 26, 1920.
8. *Ibid.,* February 16, 1920.
9. *Variety,* April 2, 1920.
10. Equity Council Minutes, April 13, 1920.
11. *Ibid.,* March 15, 1920.
12. *Equity Magazine,* April, 1920, page 14.

CHAPTER XXII

1. Comprising also Richie Ling, Frederick Truesdell, Olive Oliver, Katherine Emmet, Helen MacKellar, Albert Phillips, Ned Sparks, Lyster Chambers and W. J. Kelly.

**New York Review,* October 25, 1919.

2. *Variety,* April 16, 1920.

For the regular three year terms of the Council nominations had been given to Ethel Barrymore, Ralph Morgan, Otto Kruger, Marjorie Rambeau, Will Deming, Echlin Gayer, Bruce McRae, Ed Wynn, Grant Mitchell, Berton Churchill, William Courtenay, and Ernest Truex, with Elsie Ferguson, Edmund Breese, De Witt C. Jennings, Harrison Hunter, Tom Findlay, William B. Mack, Hassard Short, Frank Byrne, Malcolm Duncan, Richard Bennett, George Le Guere and Charles Dow Clark as alternates.*

3. *Ibid.*

4. Its remaining officers were: vice president, Berton Churchill; corresponding and recording secretary, Grant Stewart; and treasurer, Richard A. Purdy. For the Council, the independent ticket offered the names of Ethel Barrymore, Marjorie Rambeau, Constance Farber, Mona Kingsley, William Courtenay, Richard Bennett, Harrison Hunter, Ralph Whitehead, Frank Merlin, Ed Wynn, Frederic Burt and Ralph Morgan.

The names of Grant Stewart and Richard A. Purdy appeared on both tickets; as did Ethel Barrymore, Marjorie Rambeau, William Courtenay and Ralph Morgan, while Richard Bennett and Harrison Hunter, nominated on the independent slate were named as alternates by the regulars.†

5. Ethel Barrymore was moved up from the Council to vice presidency on the regular ticket, in place of Wilton Lackaye, now head of the independents. Grant Stewart, resigned from the Lackaye side to take his stand with the Emerson forces, and Edwin Mordant was named to oppose him.

On the regular ticket for the Council, Edmund Breese, Elsie Ferguson and De Witt C. Jennings had been moved up from the alternates to take the places made vacant by the promotion of Ethel Barrymore and the dropping out of Berton Churchill, now running for election as vice president on the independent slate, and the absence from the field of Ed Wynn. Elsie Ferguson, William Courtenay and Marjorie Rambeau continued to decorate both tickets, despite Emerson's expressed preference.‡

6. Equity Council Minutes, May 19, 1919.

7. *Ibid.,* May 28, 1920.

8. *Ibid.,* August 3, 1920.

9. *Equity Magazine,* June, 1920, page 5.

10. *Ibid.,* page 12.

11. *New York American,* June 10, 1920.

12. The complete report of the tellers analyzed the votes cast as follows:

	For President
Emerson, John	2,837
Lackaye, Wilton	914
Others	4
	For Vice-president
Barrymore, Ethel	2,922
Churchill, Berton	833

* Equity Council Minutes, April 14, 1920.

† *Variety,* April 30, 1920.

‡ *New York Morning World,* May 4, 1920.

For Secretary

Stewart, Grant	2,916
Mordant, Edwin	839

For Treasurer

Purdy, Richard A.	3,753

Council to Serve Three Years

Courtenay, William	3,737	Gayer, Echlin	2,885
Rambeau, Marjorie	3,725	Bennett, Richard	891
Ferguson, Elsie	3,705	Warner, H. B.	863
Mitchell, Grant	2,943	Burt, Fred	857
McRae, Bruce	2,941	Cherry, Charles	857
Breese, Edmund	2,934	Farber, Constance	855
Deming, Will	2,923	Whitehead, Ralph	842
Morgan, Ralph	2,918	Brockbank, H.	837
Truex, Ernest	2,908	Kingsley, Mona	837
Jennings, De Witt	2,896	Merlin, Francis	803
Kruger, Otto	2,891		

Council to Serve One Year

Ling, Richie	2,833

Council to Serve Two Years

Bacon, Frank	2,833

Votes for 33 Candidates not nominated	63
Votes of members, dues paid to May, 1920	450
Votes of members, dues paid to Nov., 1920	301
Present but not voting at Meeting	40

Total Votes Cast

	At Meeting	At Office	Total
Emerson, John	824	2,013	2,837
Lackaye, Wilton	197	717	914
Others	2	2	4
	1,023	2,732	3,755 *

CHAPTER XXIII

1. *New York Morning World,* May 26, 1920.
2. *Equity Magazine,* August, 1920, page 5.

* Equity Council Minutes, June 16, 1920.

3. *Ibid.*, page 4.
4. *Ibid.*, page 14.
5. *New York Times,* August 16, 1920.
6. Equity Council Minutes, August 17, 1920.
7. *Equity Magazine,* October, 1920, page 3.
8. *New York Clipper,* August 25, 1920.

CHAPTER XXIV

1. *New York Morning Telegraph,* January 14, 1921.
2. *Equity Magazine,* March, 1921, page 3.
3. *New York Morning World,* February 22, 1921.
4. Equity Council Minutes, March 15, 1921.
5. *New York Review,* March 19, 1921.
6. *New York Evening World,* March 15, 1921.
7. *Chicago Post,* March 30, 1921.

CHAPTER XXV

1. *New York Evening Globe,* July 20, 1921.
2. *New York Morning Telegraph,* August 1, 1921.
3. Award of Judge Julian W. Mack, August 26, 1921, page 9.

CHAPTER XXVI

1. *Equity Magazine,* September, 1921, page 8.
2. *Boston Post,* August 20, 1921.
3. *New York Times,* October 21, 1921.
4. *New York Tribune,* October 20, 1921.
5. *New York Review,* October 15, 1921.
6. *New York Clipper,* November 30, 1921.
7. *New York Times,* December 27, 1921.
8. *New York Sun,* December 30, 1921.
9. *New York Morning Telegraph,* December 25, 1921.
10. Those who negotiated that treaty were: the Actors' Equity Association, by John Emerson, President; Frank Gillmore, Executive Secretary; and John Cope, of the Council; Producing Managers' Association by William A. Brady, Charles Coburn and Winthrop Ames; the Authors' League of America, by Jesse Lynch Williams, President; Channing Pollock, Vice President; and Leroy Scott, of the Executive Committee; the Dramatists' Guild, by Owen Davis, President, Gene Buck and George Creel; the New York Society for the Suppression of Vice, by John S. Sumner, its Superintendent; and the Better Public Shows Movement, a body composed of thirty-seven religious and social service organizations, and the Drama League of America, by Cranston Brenton and Mrs. Caroline Caffin.*
11. *Equity Magazine,* May, 1922, page 22.
12. *New York Morning Telegraph,* April 18, 1922.

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* *New York Herald,* March 11, 1922.

13. *New York Times,* May 6, 1922.
14. *New York Evening Journal,* December 22, 1921.
15. *New York Times,* January 11, 1922.
16. *New York Review,* July 15, 1922.
17. *New York Clipper,* July 26, 1922.
18. *Equity Magazine,* August, 1922, page 16.

CHAPTER XXVII

1. *Equity Magazine,* November, 1922, page 26.
2. *Ibid.,* October, 1922, page 9.
3. *Ibid.,* page 8.
4. *Ibid.,* June, 1922, page 8.
5. *Ibid.,* October, 1922, page 15.
6. *New York Review,* December 30, 1922.

CHAPTER XXVIII

1. Equity Council Minutes, February 13, 1923.
2. *New York Morning Telegraph,* February 16, 1923.
3. *New York Evening Journal,* March 8, 1923.
4. *Equity Magazine,* April, 1923, page 12.
5. Transcript of hearing before Assembly Codes Committee, April 10, 1923, page 3.
6. *Ibid.,* page 7.
7. *Christian Science Monitor,* April 11, 1923.
8. Senate Bill Nos. 963, 1284—Int. 885, 1923.
9. *New York Morning Telegraph,* April 26, 1923.
10. *Brooklyn Standard Union,* April 22, 1923.
11. *New York Morning Telegraph,* April 28, 1923.

CHAPTER XXIX

1. *Equity Magazine,* May, 1923, page 20.
2. *Ibid.*
3. *New York Morning Telegraph,* May 5, 1923.
4. *New York Clipper,* March 28, 1923.
5. *New York Morning Telegraph,* April 17, 1923.
6. *Kansas City* (Mo.) *Journal,* May 6, 1923.
7. *New York Morning Telegraph,* April 29, 1923.
8. *Ibid.,* May 15, 1923.
9. *New York Review,* April 28, 1923.
10. *New York Morning Telegraph,* April 3, 1923.
11. *New York Evening Sun,* May 30, 1923.
12. *New York Morning Telegraph,* June 5, 1923.
13. *Ibid.,* June 11, 1923.
14. *New York Tribune,* June 12, 1923.
15. *New York Evening Telegram,* June 12, 1923.
16. *New York Morning Telegraph,* June 13, 1923.
17. *Ibid.,* June 11, 1923.

18. *New York Morning Telegraph,* June 25, 1923.
19. *Ibid.,* June 27, 1923.
20. *Ibid.,* July 6, 1923.

CHAPTER XXX

1. *New York Morning Telegraph,* June 13, 1923.
2. *Ibid.*
3. *Ibid.,* July 24, 1923.
4. *Ibid.,* July 25, 1923.
5. *Ibid.,* July 27, 1923.
6. *Ibid.,* August 24, 1923.

CHAPTER XXXI

1. *Equity Magazine,* November, 1923, page 14.
2. *Ibid.,* page 16.
3. *Ibid.,* page 12.
4. *Ibid.,* page 13.
5. *Ibid.,* page 9.
6. *Ibid.,* page 21.

CHAPTER XXXII

1. *Variety,* November 22, 1923.
2. *New York Morning Telegraph,* November 25, 1923.
3. *Ibid.*
4. *New York Times,* January 11, 1924.
5. Emerson-Gillmore report to the Council, January 8, 1924.

CHAPTER XXXIII

1. *Equity Magazine,* February, 1924, page 9.
2. Equity Council Minutes, February 19, 1924, page 1275.
3. *Ibid.,* February 26, 1924, page 1281.
4. See page 338.
5. Equity Council Minutes, February 26, 1924, page 1281.
6. The stars named in an accompanying list were: Margaret Anglin, Fay Bainter, Blanche Bates, Holbrook Blinn, Billie Burke, Ruth Chatterton, Ina Claire, Mr. and Mrs. Charles D. Coburn, George M. Cohan, Laura Hope Crews, Minnie Maddern Fiske, Grace George, Helen Hayes, Willard Mack, Louis Mann, Henry Miller, Mary Nash, Otis Skinner, Frances Starr, David Warfield, and Lenore Ulric.
7. Equity Council Minutes, February 26, 1924, page 1282.
8. *Equity Magazine,* March, 1924, page 7.
9. It was an imposing array of names which was signed to this declaration. Although later some of the managers involved denied that they had signed it, the signatures announced were: A. L. Erlanger, David Belasco, George M. Cohan, Charles B. Dillingham, Florenz Ziegfeld, Sam H.

Harris, John Golden, William A. Brady, Arthur Hopkins, Gilbert Miller, Henry Miller, William Harris, Jr., George C. Tyler, Henry W. Savage, Winthrop Ames, Wagenhals and Kemper, Marc Klaw, George White, Thomas Wilkes, Robert McLaughlin, George Broadhurst, Charles Hopkins, Wilmer and Vincent, Lyle Andrews, John Meehan, Brock Pemberton and Richard Herndon.*

Prominent as were the signers of this broadside, however, Equity took heart when it checked over the list of the Producing Managers' Association to find out who had *not* signed. The latter list included such names as Lee Shubert, A. H. Woods, Selwyn and Company, L. Lawrence Weber and Arthur Hammerstein; and continued with: Milton Aborn, Charlton Andrews, Jessie Bonstelle, Robert Campbell, George Choos, Charles D. Coburn, Comstock and Gest, Porter Emerson Browne, F. C. Coppicus, John Cort, Gus Edwards, H. H. Frazee, Joseph M. Gaites, George M. Gatts, Philip Goodman, Mrs. H. B. Harris, Jules Hurtig, P. J. Kelly, Frank T. Kintzing, Adolph Klauber, Philip Klein, Clay Lambert, John Leffler, Abraham Levy, Lewis and Gordon, Guthrie McClintic, Max Marcin, James Montgomery, Moore and Megley, Morosco Holding Company, George H. Nicolai, Schwab and Kusell, Richard Walton Tully and Charles L. Wagner.†

10. *Equity Magazine,* March, 1924, page 7.
11. See page 422.
12. *Equity Magazine,* March, 1924, page 7.
13. *Ibid.,* page 8.
14. *Ibid.*
15. *Ibid.,* page 9.
16. *Ibid.,* page 42.

CHAPTER XXXIV

1. *New York Times,* March 11, 1924.
2. *New York American,* March 11, 1924.
3. *New York Review,* March 15, 1924.
4. Equity Council Minutes, March 18, 1924, page 1297.
5. *Ibid.,* page 1299.
6. *Ibid.,* April 4, 1924, page 1319.
7. *New York Tribune,* April 4, 1924.
8. Equity Council Minutes, April 8, 1924, page 1324.
9. *Ibid.*
10. Gillmore's report to Council, April 28, 1924.
11. *New York Times,* April 30, 1924.
12. *Ibid.*

CHAPTER XXXV

1. At that meeting there were present or represented, the following producing managers or producing firms: Lyle Andrews, William A. Brady, George Choos, Ray Comstock, H. H. Frazee, Joseph Gaites,

* *Variety,* March 12, 1924.
† *Equity Magazine,* April, 1924, page 9.

Philip Goodman, Arthur Hammerstein, Richard Herndon, Mary Kirkpatrick, Adolph Klauber, Morosco Holding Company, Selwyn and Company, Lee Shubert, L. Lawrence Weber, and A. H. Woods, sixteen in all.*

The officers elected by the new organization were: President, Arthur Hammerstein; Vice-president, Lee Shubert; Secretary and Treasurer, L. Lawrence Weber (who held a corresponding position in the Producing Managers' Association).†

2. *New York Tribune,* May 3, 1924.
3. *New York Evening World,* May 3, 1924.
4. *New York Times,* May 3, 1924.
5. *New York Morning World,* May 6, 1924.
6. *New York Times,* May 6, 1924.
7. *Ibid.,* May 10, 1924.
8. *Equity Magazine,* June, 1924, page 30.
9. *Ibid.*
10. *New York Times,* May 13, 1924.
11. *Ibid.*
12. *Equity Magazine,* June, 1924, page 62.
13. *New York Tribune,* May 14, 1924.

CHAPTER XXXVI

1. *Equity Magazine,* June, 1924, page 8.
2. *Ibid.,* page 27.
3. "Rain" (management Sam H. Harris), Kathryne Kennedy, John Waller, Sara Enright, James C. Paul, Emma Wilcox, Kent Thurber, Harold Healey, Robert Elliott (Deputy), Rapley Holmes, Cyril Scott, Shirley King, Blanche Frederici, John Rogers, Robert Kelly, Jack H. McKee, H. P. Hawwa, Oka Bunda.

"The Swan" (management Charles Frohman, Inc.-Gilbert Miller), Basil Rathbone, Philip Merivale, Alice John, Beatrice Edmund Guerney, Richie Ling, Henry Warwick (Deputy), Eva Le Gallienne, Hilda Spong, Alison Skipworth, Boswell Davenport, Paul Jones, Carl Hartberg, Tom Collins, Halliwell Hobbes, Geraldine Beckwith, Nancie B. Marsland (Mrs. Hobbes), Alan M. Wille, Jack Cobb, Stanley Grand, George Walcott, Stanley Kalkhurst, Arthur J. Wood, Mary Balfour.

"The Nervous Wreck" (management Sam H. Harris), Albert Hackett, Otto Kruger, June Walker, Joseph Brennan, William Riley Hatch, Jay Wilson, Cynthia Hyde, Edward Arnold, James Baber, Hunter Williams, Winifred Wellington, J. Elmer Thompson, Hobart Cavanaugh (Deputy).

"Seventh Heaven" (management John Golden), Paul Porter, H. H. Forsman (Deputy), Richard Carlyle, Charles Romano, Alfred Kappeler, W. H. Post, Isabelle West, John Clements, Benjamin Kauser, Helen Shipman, George Gaul, Helen Menken, Beatrice Noyes.

"Lollipop" (management Henry W. Savage), Mark Smith (Deputy), William C. Gordon, Gus Shy, Florence Webber, Virginia Smith, Adora Andrews, Leonard Ceiley, Nick Long, Jr., Amelia Gardner, Irene M. Dunne, Ada May Weeks, Leonard St. Leo, Walter Craig.

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* *New York Times,* May 1, 1924.
† *Equity Magazine,* May, 1924, page 41.

"Lollipop"—Chorus—Harold Raymond, George Rand, B. Culbertson, Carol Joyce, A. Elizabeth Childs, Mary Jayne, Ruth Tester, Charles Townsend, Thomas P. Hodges, Katherine Odell, Eleanor Livingston, Evelyn Kindler, Catherine Huth, Guerida Crawford, Maude Troup, Carl C. Judd, Nerene Swinton, Lucille Constante, Gertrude K. Dolan.

"Stepping Stones" (management Charles B. Dillingham), Allene Stone, Jack Whiting (Deputy), Lydia Scott, Primrose Caryll, John Lambert, Harold B. West, Esther Stockton, Richard Silvester, Oscar Ragland, Lucille Elmore, Hazel Glen, Burt Jordan, Dorothy Stone, George Herman, Ruth White, Lilyan White, Clyde M. Powers, Elaine Palmer, Violet Turner, William Torpey, Roy Hoyer, Evelyn Herbert, W. A. Korschell, Gerald Gilbert.

The name of Fred Stone does not appear on that list solely because he had a long term contract with Dillingham, which at that time had still three years to run. But the names of Allene Stone and Dorothy Stone, his wife and daughter, did appear there, and there is no doubt but that Fred Stone, a life member of the Association, would have given his notice likewise, if he had been free to do so.

"Stepping Stones"—Chorus—Margaret O'Neill, Adelaide Robinson, Betty Roche, Thelma Marshall, Mary Brady, Jet Stanley, Francetta Molloy, Evelyn Plumadore, Ruth Hurst, Geraldine Markham, Lucille Darling, Doris Landay, Sophie Brenner, Helen MacDonald, Louise Powell, Rita Royce, Dorothy Francis, Mary Pearce, Pearl Bennett, Helene Roche, Sally Hurst, Josephine Dunn, Ruth Fallows, Maude N. Jerome.

"The Outsider" (management William Harris, Jr.), John Blair (Deputy), Whitford Kane, Kenneth Hunter, Gerald Cornell, Florence Edney, Geraldine O'Brien, Lionel Atwill, Pat Somerset, Walter Colligan, Fernanda Eliscu, Katherine Cornell, T. Wigney Percival.

"Hell Bent Fer Heaven" (management Marc Klaw), Augustin Duncan (Deputy), Earl House, Walter Downing, Margaret Borough, Marguerite Wernimont, Clara Blandick, John F. Hamilton, Glenn Anders, Harry Brooks.

"Kid Boots" (management Florenz Ziegfeld), Eddie Cantor, Harry Fender, Robert Barrett, John Rutherford (Deputy), Horton Spurr, Richard M. Dolliver, Beth Beri, Jobyna Howland, Mary Eaton, Paul Everton, Harland Dixon, Robert Cummings, Victor Munro, Ethelind Terry, Marie Callahan.

"Kid Boots"—Chorus—Morton McConnachie, Rass Erickson, Thomas Green, Ayres Tavitt, Carlos Hartvary, Jack Andrews, Richard Ware, Frank Zolt, William Blatt, Waldo Roberts, Dennis Murray, John Patterson, Edward D. Dowling, Rella Winn, Jessie Madison, Gladys Keck, Edna Locke, Polly O'Clare, Frances McHugh, Violet Regal, Sally Long, Robert Spencer, Elinore Dell, Gitana Kamp, Pearl Germonde, Diana Stegman, Janet Megrew, Edna Wheaton, Alma Mamay, Betty Gray, Eunice Hall, Carola Taylor, Mabelle Swor, Florence Ware, Jessie Payne, Juanita Erickson, Elva Pomfret, Ethel Atwell, Carolyn Smith, Evelyn Sayers, Blossom Vreeland, Mareta George.

"In the Next Room" (management Winthrop Ames), Edward Butler (Deputy), Leighton I. Stark, Morris W. Ankrum, Claude King, Mary Kennedy, Cornelia Otis Skinner, Georgea A. Backus, George E. Riddell,

Olive Valerie, Edwin H. Morse, A. Alberton, William J. Kline, Charner Batson.*

4. *Equity Magazine,* June, 1924, page 22.
5. *New York Times,* May 22, 1924.
6. *Ibid.,* May 24, 1924.
7. *Equity Magazine,* May, 1924, page 5.
8. "The preliminary injunction which plaintiff seeks to have continued, pending the action begun, is drastic in terms and will seriously injure at a very early moment, if it does not now injure, both the defendant association and their members, and a host of innocent individuals outside either body, dependent upon the theatre for a living. To succeed, the plaintiff must clearly point out some definite wrong, from which such relief is required, and the absence of an adequate remedy at law.

"The moving papers set forth an alleged conspiracy between the two defendant associations to injure and force out of business the plaintiff Producing Managers' Association and its members. They charge the individual defendants (members of the Managers' Protective Association), with violating their duties as members of the Producing Managers' Association, and criticize the contract between the defendant associations as unlawful.

"The Court is unable to say that the course of the individual defendants and of the defendant Managers' Protective Association, regarded from the standpoint of the duties of the former as members of the plaintiff association, was such as to justify the interposition of equity. If they have violated the by-laws or have otherwise offended the Producing Managers' Association, the latter has a recourse under the by-laws and regulations of that body. In view of the situation as already described, however, including the existence of the 'Declaration' of the Round Robin Group, the Court will not say, as a basis for injunctive relief, that it was unfair of the individual defendants, after learning the substance of that declaration, if they then determined, on the eve of the old contract's expiration, to protect themselves, especially since the form of protection they selected left open to their fellow members of the plaintiff association the opportunity to join in the new contract. Such a secret agreement by twenty-nine out of fifty-five of the plaintiff's voting membership was evidently taken to mean that its signers were no longer open to argument in free conference as members. The situation did not tend to mutual confidence, and in advance of a trial the defendants appear to have answered this charge so far as necessary for the purposes of the motion.

"Plaintiff points out that three of the Round Robin signers have since gone over to the opposition. If this shifts the majority and thus makes even clearer the existence of two powerful factions, certainly it is no less proper that plaintiff should be relegated to disciplinary measures within its own organization.

"Turning to the contract under consideration, and again for the purposes of this motion, the Court is not prepared to find it unlawful. It does not affect, except as it expressly excludes, the important elements of wages and hours. The Equity actors have expressly abandoned the extreme position previously maintained. The contract cannot be said improperly to interfere with competition, since admittedly more than ninety per cent of actors are already members of Equity, so that the

* *Equity Magazine,* June, 1924, page 27.

proportion of eighty Equity members to twenty non-members provided for is not on its face unreasonable or conducive to greater control of the profession than already existed.

"The requirement that non-members during participation shall pay their share of expenses, while not obligated to join the association is apparently unobjectionable. We have already seen that the members of the plaintiff association may share the benefits of the contract. There is no duress, as numerous authorities hold, when the interests of non-members and not unlawful compulsion makes the argument for joining. Altogether the plaintiff has failed to show that the contract of May 12, 1924, and the defendants' combination are void and illegal as in restraint of trade or in violation of the civil and penal laws of this State or of the penal laws of the United States. (*Bossert vs. Dimy, 221 N. Y.* 342.)

"It may be remarked in passing that the proposals submitted to distinguished counsel by plaintiff, and by him condemned are different from the terms finally embodied in the contract of May 12, 1924. The defendant Managers' Association does not include all managers, nor does the defendant Actors' Equity Association, all actors. A distinguished jurist * whose services were embodied as umpire in an arbitration case brought by the Producing Managers' Association against the Actors' Equity Association in August, 1921, supported many of the features of the contract of May 12, 1924. Finally, it should be noted that the moving papers rely, not on the contract of May 12, 1924, which plaintiff says it had not seen, but on an abstract or summary of its proposed terms, and on an article which appeared in the May, 1924, number of the official organ of the Actors' Equity Association. This article, by the way, does not sustain plaintiff's inference of a conspiracy drawn from it. Rather, by its very frankness, exultation and exaggeration, it negatives anything resembling a conspiracy between the two defendant associations; rather it bears evidence of an attempt to render palatable to the members of the Actors' Equity an agreement which has receded from their long standing contention for a one hundred per cent 'Equity Shop.' Needless to say, it is not upon such summaries or such articles that the Court will rely, when we have before us the very language of the contract in question.

"Motion for a continuing injunction denied. Preliminary injunction against defendants vacated. Injunction directed against the plaintiff in open court on May 26, 1924, will also be vacated." †

9. *Equity Magazine,* June, 1924, page 24.
10. *New York Times,* June 1, 1924.
11. *Ibid.*
12. *Ibid.*
13. *Equity Magazine,* June, 1924, page 22.
14. *New York Morning Telegraph,* June 3, 1924.
15. *New York Times,* June 2, 1924.
16. *Ibid.*
17. Equity Council Minutes, June 3, 1924, page 1370.
18. *Ibid.,* page 1368.

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* Julian W. Mack.
† *Equity Magazine,* June, 1924, page 9.

CHAPTER XXXVII

1. *New York Morning Telegraph,* June 12, 1924.
2. *New York Times,* June 12, 1924.
3. *New York Morning World,* June 15, 1924.
4. Equity Council Minutes, June 17, 1924, page 1381.
5. *Variety,* July 2, 1924.
6. *Equity Magazine,* July, 1924, page 44.
7. *New York Evening Post,* July 10, 1924.
8. *Equity Magazine,* July, 1924, page 8.
9. Equity Council Minutes, July 22, 1924, page 1407.
10. *Equity Magazine,* August, 1924, page 9.
11. *New York Evening World,* July 26, 1924.
12. *Equity Magazine,* September, 1924, page 36.
13. *Ibid.,* page 37.
14. *Ibid.,* page 12.
15. *Ibid.,* November, 1924, page 12.
16. Of Pryor's list of one hundred and sixty-six names submitted as of members in good standing September 1, 1923, only eighty-three could be demonstrated to the Equity auditor; but so thorough was the check that it uncovered seven other Fidelity members in good standing on that date who had not been so carried by their own organization, previously.

The eighty-three members of the Actors' Fidelity League in good standing September 1, 1923, as certified to the Actors' Equity Association by Mesurac, were: Lillian Lee Anderson, Bertha Bellinger, Mrs. Russell Bassett, Elizabeth H. Belyea, Mrs. Idella C. Betts, Kenyon Bishop, Ruth Benson Blinn, Charles Brokate, Cynthia Brooke, Ethel Cooksey, Miss Edith Culver, Hattie Carmontel, H. Lawson Chaffin, Grace Chester, Bernice Childs, Mme. Alma Clayburgh, Mrs. Wally Decker, Pauline W. DeLisser, Mrs. Doily Dolman, Lawrence D'Orsay, Suzanne D'Orsay, Harry Dull, Gladys Earlcott, Ernest A. Elton, Don W. Ferrandon, John E. Gorman, Lillian Grant, Jeanne Granville, Arleen Hackett, Jo Robinson Haywood, Edward Hemmer, Dorothy M. Hess, Mrs. May Hickman, A. Hodges (Mrs. Kyle), Charles Hopkins, Albert S. Howson, Loretta H. Howson, M. G. (Pierce) Hudson, Alice C. Johnson, Marian Johnson, Helen G. Judson, Harry Keefer, Miriam Kurzman, Marcia (L. M.) Lake, Cynthia Latham, Virginia Lee, Ralph LeFree, Charlotte Lesley, Edna Macbeth, Mrs. H. T. MacRobert, Kathryn Meredith, Adelaide Mesmer, Irene Mesmer, Mary Mitman, Charlotte Tittel Munro, Julia Neville, Alice Nielson, Axel Olson, James A. Osborne, Minnie Palmer, Nell Paul, Homer Peach, Alva Porter, Gertrude Quinlan, John W. Ransone, Amy Ricard, Constance Robinson, Josephine D. Robinson, Charlotte Burkett Shea, William Slider, Mrs. Stella Smith, Lynn Starling, Charles J. Stockdale, Lark Taylor, Mrs. Sidney Toler, Val Trainor, Harriet Tubman, Robert Vaughn, Antoinette Walker, Emily Ann Wellman, Edna Whistler, Edith Yeager.*

The seven members uncovered by the audit to whose good standing Mesurac was willing to certify were: Mrs. E. W. Colton, Kurt Eisfeldt, Stella Gilmore, Harry Irwin, Mrs. Harry Irwin, Jones Maxine Reynolds, and Helen Tracy.†

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* *Equity Magazine,* November, 1924, page 12.

† Mesurac's report to the Council, October 27, 1924.

Mesurac also included under a separate division the names of three apparent Life Members whose cards went back to 1919 but whose standing could not be verified in the absence of financial records. They were Virginia Fox Brooks, Marie Louise Walker and Olive Wyndham.*

The same lack of proof likewise threatened to jeopardize the exemption of fifteen more who claimed life membership, but whose actual life membership was open to doubt from the accountant's point of view. In this class were: Ruth Chester, Sam Forrest, W. H. Gilmore, Gladys Hanson, Edna Wallace Hopper, Eileen Huban, Justine Johnstone, Clara M. Lipman, Wilson Reynolds, Zelda Sears, Thomas E. Shea, Stella St. Audrie, Marguerite St. John, Judith Vosselli and Marjorie Wood.*

17. *Equity Magazine,* November, 1924, page 7.

CHAPTER XXXVIII

1. *New York Morning Telegraph,* May 15, 1923.
2. *Ibid.,* May 29, 1923.
3. *Equity Magazine,* March, 1925, page 40.
4. *Ibid.,* April, 1925, page 12.
5. *Ibid.,* July, 1926, page 9.
6. *New York Times,* November 16, 1926.
7. *Equity Magazine,* February, 1927, page 8.
8. *Ibid.,* April, 1927, page 8.
9. *Ibid.,* April, 1929, page 5.
10. *Ibid.,* March, 1927, page 10.
11. *Ibid.,* October, 1927, page 7 *et seq.*
12. *Ibid.,* August, 1928, page 7.

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* *Equity Magazine,* November, 1924, page 42.

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